



REVISED AGENDA

Continued from March 16, 2020 City Council Meeting

SAN RAFAEL CITY COUNCIL – MONDAY, MARCH 23, 2020

REGULAR MEETING AT 7:00 P.M.

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be streamed through YouTube Live. Comments submitted via YouTube Live must be submitted according to the directions located on the YouTube video description. The City is not responsible for any interrupted service. To ensure the City Council receives your comments, submit written comments to the City Clerk prior to the meeting. For more information regarding real-time public comments, please visit our Live Commenting Pilot page at <https://www.cityofsanrafael.org/live-commenting-pilot/>. Additionally, the video will be streamed to our website at www.cityofsanrafael.org/meetings.

If you do not have access to internet, please contact the City Clerk at 415-485-3066 by 3:00 p.m. the day of the meeting to learn about additional options for remote participation.

Any member of the public who needs accommodations should contact the City Clerk (email lindsay.lara@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: -None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER'S REPORT:

3. City Manager's Report:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

4. Consent Calendar Items:

a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular and Special Meetings of Monday, March 2, 2020 (CC)

Recommended Action – Approve minutes as submitted

b. **Downtown San Rafael Special Event Street Closures**

Resolution Authorizing Closure of Downtown City Streets for Special Events Scheduled During the Calendar Year 2020 (LR)

Recommended Action – Adopt Resolution

c. **Point San Pedro Road Special Event Street Closures**

Resolution Authorizing Closure of Point San Pedro Road from Riviera Drive to Biscayne Drive for the Marin County Half Marathon, April 26, 2020 and the Marin County Triathlon, October 24-25, 2020 (LR)

Recommended Action – Adopt Resolution

d. **Marin Emergency Radio Authority**

Resolution Approving and Authorizing the City Manager to Execute a First Amendment to the Communications Site License Agreement with the Marin Emergency Radio Authority (MERA) Allowing MERA to Update Its Radio Communications System (PW)

Recommended Action – Adopt Resolution

e. **2017 Storm Damage Repairs – 70 Irwin**

Accept Completion of the 2017 Storm Damage Repairs – 70 Irwin Project (City Project No. 11308), and Authorize the City Clerk to File the Notice of Completion (PW)

Recommended Action – Accept completion and authorize the City Clerk to file the Notice of Completion

OTHER AGENDA ITEMS:

5. Other Agenda Items:

a. **Community Development Block Grant**

Resolution Recommending Community Development Block Grant (CDBG) Project Funding for the Fiscal Year 2020-21 to the Marin County Board of Supervisors (ED)

Recommended Action – Adopt Resolution

b. **Bargaining Unit Side Letter Extending Current Agreement with SEIU Local 1021**

Resolution Approving a Memorandum of Understanding Side Letter Agreement Between the City of San Rafael and SEIU Local 1021 (HR)

Recommended Action – Adopt Resolution

PUBLIC HEARINGS:

6. Public Hearings:

a. **999 3rd St - BioMarin R&D Buildings / Whistlestop Senior Center / Eden Senior Housing**

i. Resolution Certifying the Final EIR

Recommended Action – Adopt Resolution

- ii. Resolution Adopting CEQA Findings of Fact and Statement of Overriding Considerations, and Approving an Exception to Level of Service Standards and a Mitigation Monitoring and Reporting Program (MMRP)
Recommended Action – Adopt Resolution
- iii. Resolution Approving General Plan Amendments to Establish Text and Map Amendments to: 1) Modify Exhibit 6 FAR Maps to Add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd St Site, and 2) Amend Exhibit 10 – Height Bonuses – to Create a New 20 ft. Height Bonus for this Site
Recommended Action – Adopt Resolution
- iv. Consideration of An Ordinance Adopting a Zoning Text Amendment to Establish New Height Bonus Provision for the BioMarin Portion of the Site for Projects Which Meet Specific Criteria
Recommended Action – Pass Ordinance to print
- v. Consideration of An Ordinance adopting a Planned Development Rezoning to Incorporate the BioMarin Portion of the 999 3rd St property into Existing SRCC PD District and Update the PD with Land Use Regulations and Development Standards
Recommended Action – Pass Ordinance to print
- vi. Consideration of An Ordinance approving a Development Agreement for the BioMarin Portion of the Site to Vest the Entitlements for a 10-year Period, Freeze Impact Fees at Current Rates and Modify Terms of the Prior Development Agreement
Recommended Action – Pass Ordinance to print
- vii. Resolution Conditionally Approving a Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) for the 999 3rd St BioMarin/Whistlestop/Eden Housing Project
Recommended Action – Adopt Resolution
- viii. Resolution Authorizing the Mayor and City Clerk to Sign the Development Agreement
Recommended Action – Adopt Resolution

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

7. Councilmember Reports:

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.

In the Council Chambers of the City of San Rafael, Monday, March 2, 2020



Regular Meeting

San Rafael City Council

Minutes

Present: Mayor Phillips
Councilmember Colin
Councilmember Bushey
Councilmember Gamblin

Absent: Councilmember McCullough

Also Present: City Manager Jim Schutz
City Attorney Robert Epstein
City Clerk Lindsay Lara

[How to participate in your City Council meeting](#)

Mayor Phillips called the meeting to order at 7:01 p.m.

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. **None.**

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. **Closed Session: -None.**

Mayor Phillips announced the Special Meeting held prior to the City Council Meeting

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

Cindy Salvesen addressed the City Council regarding Drag Queen Storytime at the San Rafael Public Library

CITY MANAGER'S REPORT:

3. **City Manager's Report:**

- City Manager Jim Schutz:
 - announced Election Day on March 3, 2020 and commented on Marin Wildfire Prevention Tax (Measure C)
 - commented on the Coronavirus and discussed treatment and prevention
 - announced the Citizens Police Academy recruitment for applications through March 11, 2020
 - announced Coffee and Codes hosted by the Community Development Department on March 5, 2020 from 10:00 a.m. to 12:00 p.m. at City Hall

CONSENT CALENDAR:

4. Consent Calendar Items:

Mayor Phillips invited public comment on the Consent Calendar; however, there was none

Councilmember Bushey moved and Councilmember Colin seconded to approve Consent Calendar Items:

- a. Approval of Minutes**
Approve Minutes of City Council / Successor Agency Regular and Special Meetings of Tuesday, February 18, 2020 (CC)

[Regular Minutes 2020-02-18](#)

[Special Minutes 2020-02-18](#)

Approved minutes as submitted

- b. Citizen of the Year 2020**
Resolution of Appreciation to Recipient of The Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award 2020 (CC)

[Citizen of the Year 2020](#)

[Staff Report](#)

Resolution 14766 - Resolution of Appreciation to Recipient of The Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award 2020

- c. Third Street Safety Improvements - Design and Environmental Resolution Approving and Authorizing the City Manager to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for Engineering Design and Environmental Clearance Services Associated with the Third Street Safety Improvements Project In An Amount Not to Exceed \$280,000 (PW)**

[Third Street Safety Improvements](#)

Resolution 14767 - Resolution Approving and Authorizing the City Manager to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for Engineering Design and Environmental Clearance Services Associated with the Third Street Safety Improvements Project In An Amount Not to Exceed \$280,000

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: McCullough

SPECIAL PRESENTATIONS:

5. Special Presentations:

- b. 2019 Community Service Award to the B Team**
Presentation of the 2019 California Park & Recreation Society (CPRS) District Community Services Award to the "B Team" (LR)

Mayor Phillips introduced Recreation Coordinator Ashley Howe to present the B Team with the Community Services Award

- a. **Citizen of the Year 2020
Presentation of Resolution of Appreciation to Recipient of The Richard P. O'Brien and
Mary Ferrario O'Brien Citizen of the Year Award 2020**

Mayor Phillips presented the Citizen of the Year 2020 award to the Dominican Sisters

City Manager Jim Schutz commented on the B Team's award and presented the Storytelling Committee's video on the San Radfael story.

OTHER AGENDA ITEMS:

6. Other Agenda Items:

- a. **Direct Connect Emergency Medical Services Pilot Program
Informational Update on the Direct Connect Emergency Medical Services (EMS) Pilot
Program (FD)**
[Direct Connect EMS Pilot Program](#)

Battalion Chief Matt Windrem presented the staff report

Staff responded to questions from the City Council.

Mayor Phillips invited public comment; however, there was none

Councilmembers provided comments.

Councilmember Colin moved and Councilmember Bushey seconded to accept the report

Accepted report

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

- b. **Camp Chance 2020 - "Bringing Cops and Kids Together"
Informational Report Regarding Camp Chance 2020 (PD)**
[Camp Chance 2020](#)

Police Lieutenant Roy Leon presented the staff report

Mayor Phillips invited public comment; however, there was none

Councilmember Colin moved and Councilmember Bushey seconded to accept the report

Accepted report

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

7. Councilmember Reports:

Councilmember Colin reported on Transportation Authority of Marin (TAM) and Marin Transit

SAN RAFAEL SUCCESSOR AGENCY

1. Consent Calendar: - None.

ADJOURNMENT:

Councilmember Colin adjourned the meeting at 8:03 p.m. in memory of Linda Phillips, the wife of Mayor Phillips

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2020

GARY O. PHILLIPS, Mayor

DRAFT

In the City Manager's Conference Room of the City of San Rafael, Monday, March 2, 2020



**Special Meeting
San Rafael City Council**

Minutes

Present: Mayor Phillips
Vice Mayor Colin
Councilmember Bushey
Councilmember Gamblin

Absent: Councilmember McCullough

Also Present: City Manager Jim Schutz
City Clerk Lindsay Lara
Acting Fire Chief Robert Sinnott

Mayor Phillips called the meeting to order at 6:30 p.m.

**1. Fire Commission Interviews
Interview Applicants and Make Appointments to Fill Two Four-Year Terms, One
Regular Voting Member and One Alternate Member, On the Fire Commission to
the End of March 2024 (CC)**
[Fire Commission Interviews](#)

The City Council interviewed the following applicants: Thomas Weathers and David Fonkalsrud. Andrew Cullen withdrew his application.

Councilmember Colin moved and Councilmember Bushey seconded to approve the reappointment of Thomas Weathers and Alternate Member David Fonkalsrud to two four-year terms to the end of March 2024 on the San Rafael Fire Commission.

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

ADJOURNMENT:

Mayor Phillips adjourned the meeting at 6:54 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2020

GARY O. PHILLIPS, Mayor



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Library & Recreation

Prepared by: Brian Auger, Event Coordinator City Manager Approval:

TOPIC: DOWNTOWN SAN RAFAEL SPECIAL EVENT STREET CLOSURES

SUBJECT: RESOLUTION AUTHORIZING CLOSURE OF DOWNTOWN CITY STREETS FOR SPECIAL EVENTS SCHEDULED DURING THE CALENDAR YEAR 2020

RECOMMENDATION:

Adopt resolution authorizing the Special Event Street Closures in Downtown San Rafael for Calendar Year 2020

BACKGROUND:

The City of San Rafael Municipal Code requires City Council approval of all special events which necessitate the temporary closure of City streets and temporary parking restrictions. As of March 2020, there are seven (7) special events that are planned which require Downtown street closures and/or parking restrictions. Individual operational reports covering staffing and street closures will be generated for each event as the year progresses. Staff recommends that Council approve street closure for these events for the year 2020.

Advance approval for the majority if events will streamline the approval process without sacrificing City input and control. If approval is granted for the stated events, the Events Coordinator will continue to process all event applications as in previous years. Event producers will be required to submit a Special Event Application, fulfill insurance requirements indemnifying the City from liability associated with the event, and detailed information regarding operation, logistics and activities included in the event. The Events Coordinator will ensure event organizers effectively manage community notifications of potential event impacts as well as associated street closures.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

The following table includes the seven special event street closure events:

Date	Event	Location
Every Thursday - May 7 - September 24, 2020	Downtown San Rafael Market	Fourth Street; Cijos Street to B Street; various side streets
May 9, 2020	May Madness	Fourth Street: Lincoln Avenue to C Street; various side streets
July 25, 2020	San Rafael Sunset Criterium	Fourth Street: Lootens Place to E Street; various side streets
September 13, 2020	WENA Picnic	Neame Street between Santa Margarita & West Crescent Street
September 20, 2020	Porchfest	Gerstle Park: Bayview Street; Clorinda Street to San Rafael Avenue; Marin Street; various side streets
November 8, 2020	West End Family Fun Day Celebration	Fourth Street: Shaver Street to H Street; various side streets
November 27-28, 2020	Winter Wonderland/Parade of Lights	Fourth Street: Lootens Place to B Street; various side streets

COMMUNITY OUTREACH:

Merchants, Businesses, Residents and general public are notified of the street closures through a variety of traditional outlets including mailed notices, public service messages, event posters etc.

FISCAL IMPACT:

Pursuant to the current City policy, Police, Public Works and Parking Services fees and/or costs will be assessed and reimbursed by the event organizer unless directed otherwise. Costs vary per event.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution authorizing the Special Event Street Closures in Downtown San Rafael for Calendar Year 2020
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt resolution authorizing the Special Event Street Closures in Downtown San Rafael for Calendar Year 2020

ATTACHMENT:

1. Resolution Authorizing Temporary Closure of Streets in Downtown for Special Events for Calendar Year 2020

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING CLOSURE OF DOWNTOWN CITY STREETS FOR SPECIAL EVENTS SCHEDULED DURING THE CALENDAR YEAR 2020

WHEREAS, the City Council has determined that it is in the best interest of Public Safety to implement a modified Traffic Plan and Road Closure for all special events in Downtown San Rafael and nearby neighborhoods;

WHEREAS, after reviewing plans for the event and the traffic patterns, City staff has determined and recommended that, in the interest of the safety and welfare of pedestrian and auto traffic in the downtown area, certain streets should be temporarily closed to through traffic for the date and locations as specified in the Staff Report accompanying this Resolution;

NOW, THEREFORE BE IT RESOLVED, by the San Rafael City Council that pursuant to the authority of Vehicle Code section 21101(e), for the safety and protection of persons, both pedestrians and vehicle drivers, the City Council hereby authorizes the temporary closure of the streets listed in the Staff Report accompanying this Resolution for the locations and times described in that report.

I, Lindsay Lara, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council held on the 16th day of March 2020 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Library and Recreation

Prepared by: Brian Auger, Event Coordinator

City Manager Approval: _____

A handwritten signature in black ink, appearing to be 'JS', written over a horizontal line.

TOPIC: POINT SAN PEDRO ROAD SPECIAL EVENT STREET CLOSURES

SUBJECT: RESOLUTION AUTHORIZING CLOSURE OF POINT SAN PEDRO ROAD FROM RIVIERA DRIVE TO BISCAYNE DRIVE FOR THE MARIN COUNTY HALF MARATHON, APRIL 26, 2020 AND THE MARIN COUNTY TRIATHLON, OCTOBER 24-25, 2020

RECOMMENDATION:

Adopt the resolution.

BACKGROUND:

The Marin County Half Marathon and the Marin County Triathlon are two fundraising events produced annually by Sustainable Sports on Point San Pedro Road from Riviera Drive to Biscayne Drive. Advance approval for these two similar annual events significantly streamlines the approval process without sacrificing City input and control.

All Street Closures for Special Events are coordinated by Event Staff with the Police Department Traffic Division, Parking Services, Public Works as well as other departments who provide input for the street closure, or any individual special event service needed.

If approval is granted for the two stated events, the Events Coordinator will continue to process all event applications as in previous years. Event producers will be required to submit an Event Application, fulfill insurance requirements and indemnify the City from liability associated with the event, and provide detailed information regarding operation, logistics and activities included in the event. The Events Coordinator will ensure event organizers effectively manage community notifications of potential event impacts as well as associated street closures.

COMMUNITY OUTREACH:

Merchants, businesses, residents and general public are notified of the street closures through a variety of traditional outlets including mailed notices, public service messages, homeowners' associations, event posters, etc.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

FISCAL IMPACT:

Pursuant to the current City policy, Police, Public Works and Parking Services costs will be reimbursed by the event unless directed otherwise.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt the resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the resolution.

ATTACHMENT:

1. Resolution for Street Closures on Point San Pedro Road from Rivera Road to Biscayne Drive

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AUTHORIZING CLOSURE OF POINT SAN PEDRO ROAD FROM RIVIERA DRIVE TO
BISCAYNE DRIVE FOR THE MARIN COUNTY HALF MARATHON, APRIL 26, 2020 AND
THE MARIN COUNTY TRIATHLON, OCTOBER 24-25, 2020**

WHEREAS, the Marin County Half Marathon and Marin County Triathlon require temporary street closures to execute these special events;

WHEREAS, after reviewing plans for the event and the traffic patterns, City staff has determined and recommended that, in the interest of the safety and welfare of pedestrian and auto traffic in the Peacock Gap area, Point San Pedro Road should be temporarily closed to through traffic for the locations, dates and times described below:

- 1. Sunday, April 26, 2020 – Street Closures**
Point San Pedro Road from Riviera Drive to Biscayne Drive
- 2. Saturday, October 24, and Sunday, October 25, 2020 – Street Closures**
Point San Pedro Road from Riviera Drive to Biscayne Drive

NOW, THEREFORE BE IT RESOLVED, by the City Council that pursuant to the authority of Vehicle Code section 21101(e), for the safety and protection of persons, both pedestrians and vehicle drivers, the City Council hereby authorizes the temporary closure of the above listed street for the locations and times described above.

I, Lindsay Lara, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council held on the 16th day of March 2020 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Bill Guerin,
Director of Public Works

City Manager Approval: _____

TOPIC: MARIN EMERGENCY RADIO AUTHORITY

SUBJECT: A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE COMMUNICATIONS SITE LICENSE AGREEMENT WITH THE MARIN EMERGENCY RADIO AUTHORITY (MERA) ALLOWING MERA TO UPDATE ITS RADIO COMMUNICATIONS SYSTEM

RECOMMENDATION: Adopt a resolution approving and authorizing the City Manager to execute a first amendment to the Communications Site License Agreement with the Marin Emergency Radio Authority (MERA) allowing MERA to update its radio communications system.

BACKGROUND: In February 2001, the City Council entered into a Communications Site License Agreement with MERA permitting MERA to install telecommunications facilities on City property atop Dollar Hill subject to conditions included in the approved Environmental and Design Review Permit (ED00-53) and Use Permit (UP00-43). The existing MERA system currently includes 16 active communication sites, which will change as part of MERA's Next Generation Radio Communication System project. MERA is a county-wide radio communications system that provides integrated communications across Marin. MERA Next-Gen is a system-wide upgrade to the emergency communications network.

ANALYSIS: The Next Generation Radio Communication System project includes upgrades to Marin County's existing emergency radio communications system that will improve the County's emergency communication capabilities during daily public service and critical emergencies. The project would replace equipment at currently operating communications sites as well as install telecommunications facilities (towers, microwave dishes, antennae, radio shelter and emergency power generation) at new sites where public and private infrastructure already exists.

FISCAL IMPACT: There is no fiscal impact associated with this item.

OPTIONS: The City Council has the following options to consider relating to this matter:

1. Adopt a resolution authorizing the City Manager to execute a first amendment to the Site License Agreement.

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

2. Do not adopt the resolution and provide direction to staff.

RECOMMENDED ACTION: Adopt the resolution.

ATTACHMENT:

1. Resolution
2. Exhibit 1 to Resolution: First Amendment to the Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE COMMUNICATIONS SITE LICENSE AGREEMENT WITH THE MARIN EMERGENCY RADIO AUTHORITY (MERA) ALLOWING MERA TO UPDATE ITS RADIO COMMUNICATIONS SYSTEM

WHEREAS, the City of San Rafael is the owner of certain property known as Mountain Park Reservation located on Dollar Hill (City Property); and

WHEREAS, on February 5, 2001, the City Council adopted Resolution No. 10764, which authorized execution of a Communications Site License Agreement permitting the Marin Emergency Radio Authority (MERA) to install its telecommunications facilities on the City Property, consistent with the approved Environmental and Design Review Permit (ED00-53) and Use Permit (UP00-43); and

WHEREAS, MERA desires to improve its communication infrastructure through the Next Generation Radio Communication System project, including modifying the frequencies at which radio signals operate;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The City Council hereby approves and authorizes the City Manager to execute a first amendment to the Communications Site License Agreement with MERA allowing MERA to update its radio communications system, in the form attached hereto as Exhibit 1 and incorporated herein by reference, subject to final approval as to form by the City Attorney.
2. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 16th day of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

FIRST AMENDMENT TO COMMUNICATIONS SITE LICENSE AGREEMENT

This First Amendment to Communications Site License Agreement is entered into on this ___ day of _____, 2020, by and between the City of San Rafael (the “City” or “Licensor”) and the Marin Emergency Radio Authority (“MERA” or “Licensee”).

WHEREAS, the City and MERA entered into that certain Communications Site License Agreement (“Agreement”) to provide, in part, space for a communications site located on City-owned property described in Paragraph 1 of the Agreement; and

WHEREAS, the parties desire to amend the Agreement to authorize Licensee to update its radio communication system as described below.

NOW, THEREFORE, the parties hereto agree, in consideration of the mutual covenants and obligations, to the terms and conditions hereinafter set forth as follows:

1. The first sentence of Paragraph 2 of the Agreement shall be amended to read as follows:

“The City grants to MERA, subject to the rights and privileges of current tenants and other grantees, the right and privilege to use the License Space for the sole purpose of constructing, maintaining, securing and operating a public safety, fire protection and emergency radio system, including, the transmission and reception of radio communication signals on various frequencies (between 769 MHz and 775 MHz and in the 6 GHz spectrum for microwave transmissions), in conformance with the approved site plans and related drawings on file with the City Community Development Department, and subject to the terms and conditions of approval contained in Resolution No. 10763 approving Environmental and Design Review Permit ED00-53 and Use Permit UP00-43 (collectively the “MERA Communication Facilities”).”

2. Paragraph 8 of the Agreement shall be amended to read as follows:

“All notices or demands are deemed to be given or made when delivered in person or delivered by certified or registered mail, return receipt requested, postage prepaid United States mail, or by facsimile, and addressed to the respective parties as follows:

CITY: City Manager
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901
Fax: 415-459-2242
Phone: 415-485-3070

And with respect to insurance issues:

City Risk Manager
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901
Fax: 415-499-5296
Phone: 415-485-3069

MERA: Marin Emergency Radio Authority
c/o Town of Corte Madera
300 Tamalpais Drive
Corte Madera, CA 94925

Attention: Executive Officer

The address to which any notice or demand may be given to either party may be changed by written notice.”

3. All other terms and conditions of the Agreement shall remain in effect.

IN WITNESS THEREOF, the parties have executed this Amendment as of the date first written above.

LICENSOR:

CITY OF SAN RAFAEL

APPROVED AS TO FORM:

City Manager

City Attorney

Date: _____

ATTEST:

City Clerk

LICENSEE:

MARIN EMERGENCY RADIO AUTHORITY

APPROVED AS TO FORM:

Executive Officer

MERA Counsel

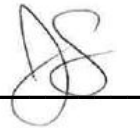
Date: _____



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval: 

TOPIC: 2017 STORM DAMAGE REPAIRS – 70 IRWIN

SUBJECT: ACCEPT COMPLETION OF THE 2017 STORM DAMAGE REPAIRS – 70 IRWIN PROJECT (CITY PROJECT NO. 11308), AND AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

RECOMMENDATION: Accept completion of the 2017 Storm Damage Repair- 70 Irwin Project and authorize the City Clerk to file the Notice of Completion.

BACKGROUND: In January 2017, the City of San Rafael, as well as other communities throughout California, experienced a significant storm event. On February 14, 2017, the President declared a major disaster, making federal disaster aid available to 34 counties, including Marin County. From January 3, 2017 to January 12, 2017 a ‘slip-out’ (landslide) occurred adjacent to #70 Irwin Street. At the time of the incident, the slip-out affected the shoulder of the roadway.

The project to repair the storm damage for the protection of the roadway was publicly advertised in accordance with San Rafael’s Municipal Code on June 27, 2018, and four bids for the construction were received. On [September 4, 2018](#), the City Council awarded the construction contract to Valentine Corporation in the amount of \$1,129,369 with a construction contingency in the amount of \$115,631 for a total allocation of \$1,245,000. On [December 17, 2018](#), the City Council allocated additional construction contingency related to unforeseen changes in site conditions that required the construction of additional block wall behind 32 Glenaire Drive in the amount of \$65,000. City maintenance staff monitored the roadway during the winter of 2018 and recommended the rehabilitation of an earthen ditch on the uphill side of the roadway to prevent future undermining of the roadway. The ditch rehabilitation funding of \$250,000 was allocated by the City Council on [October 7, 2019](#) bringing the total contract allocation to \$1,560,000. Construction commenced on September 4, 2018 and was completed on December 20, 2019.

A reimbursement request for this project has been forwarded to the Federal Emergency Management Agency (FEMA) and the City is awaiting reimbursement for a portion of these costs. The project was designed in-house by Public Works staff and inspected by Park Engineering. The cost of Park Engineering’s professional services agreement will also be reimbursable by FEMA.

ANALYSIS: Pursuant to Civil Code Section 3093, the City is required to record a Notice of Completion upon City acceptance of the improvements. This acceptance initiates a time period during which project subcontractors may file Stop Notices seeking payment from the City from the funds owed to the Contractor for the project work.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

FISCAL IMPACT: There is no fiscal impact associated with this item.

RECOMMENDED ACTION: Accept completion of the 2017 Storm Damage Repair- 70 Irwin Project and authorize the City Clerk to file the Notice of Completion.

ATTACHMENTS:

1. Notice of Completion

Recording Requested By:
The City of San Rafael

When Recorded Mail To:
Lindsay Lara, City Clerk
1400 Fifth Avenue
San Rafael, CA 94901

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION
Civil Code §§ 8182, 8184, 9204, and 9208

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the agent of the owner of the Project described below.
2. Owner's full name is City of San Rafael ("City")
3. City's address is 1400 5th Ave, San Rafael, CA 94901
4. The nature of City's interest in the Project is:
 Fee Ownership Lessee Other: Public Right of Way Easement
5. Construction work on the Project performed on City's behalf is generally described as follows: Repair of land slide damage at 70 Irwin. Repairs include reconstruction of roadway, construction of retaining walls, and storm water control devices.
6. The name of the original Contractor for the Project is: Valentine Corporation
7. The Project was accepted as complete on: December 20, 2019.
8. The Project is located at: 70 Irwin Street San Rafael, CA 94901.

Verification: In signing this document, I, the undersigned, declare under penalty of perjury under the laws of the State of California that I have read this notice, and I know and understand the contents of this notice, and that the facts stated in this notice are true and correct.

Date and Place

Signature:

Bill Guerin, Director of Public Works

*EXEMPT FROM NOTARY ACKNOWLEDGMENT REQUIREMENTS PER
GOVERNMENT CODE § 27287 AND CIVIL CODE § 9208*



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Economic Development

**Prepared by: Danielle O'Leary
Director of Economic Development & Innovation**

City Manager Approval: _____

TOPIC COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

**SUBJECT COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING
RECOMMENDATIONS FOR FISCAL YEAR 2020-21**

RECOMMENDATION

Adopt a resolution recommending CDBG funding for Fiscal Year 2020-21 to the Marin County Board of Supervisors (BOS) for the San Rafael Planning Area.

BACKGROUND

The Community Development Block Grant (CDBG) program is a federally-funded program of the U.S. Department of Housing and Urban Development (HUD) that provides funding for housing, community facilities, and human services.

Federal regulation requires at least 85% of the funds must be spent on housing and capital projects, and up to 15% may be spent on public services. The City Council has the option to adjust the public service percentage on an annual basis. However, it cannot exceed 15% of San Rafael's grant. For example, the City Council could choose to allocate 0% of the CDBG allocation to public services.

In San Rafael, examples of CDBG-funded projects have included development of affordable housing, ADA sidewalk accessibility improvements, and a wide range of public services. The funds are divided into three activity categories consisting of:

- 1.) Housing
- 2.) Capital Projects
- 3.) Public Services

In 2017, the City entered into a cooperation agreement with the County of Marin regarding the management of the CDBG program. Under this agreement, Marin County is divided into three local planning areas. Funding recommendations are overseen by a Countywide Priority Setting Committee (PSC) made up of City and Town Council members, a County Supervisor, and community members representing members of the protected classes (race, color, national origin, religion, sex, familial status, or disability) under fair housing laws.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

Because San Rafael has a population of over 50,000 residents, under the cooperation agreement, the City may choose to assume responsibilities for making its own recommendations for funding projects in the San Rafael Planning Area (consisting of the City and the surrounding unincorporated areas) to the Countywide Priority Setting Committee (PSC).

Since 1999, when San Rafael reached 50,000 in population, the City Council has elected to assume responsibility for making funding recommendations for CDBG applications in the San Rafael Planning Area. After the City Council makes its recommendations, the PSC recommends them to the Board of Supervisors (BOS), which has final approval authority prior to sending the recommendations to HUD.

CDBG Funding Update – Federal

Funds for the County of Marin’s 2020-2021 CDBG program funding cycle comes from the Fiscal Year 2021 federal budget, which runs from October 1, 2020 to September 30, 2021, and allocated on a formula basis to entitled cities and counties. County of Marin represents the entitled jurisdiction covering the City of San Rafael. The County of Marin’s CDBG program allocation is \$1,594,625.

This grant, combined with income received by the program, brings San Rafael’s allocation to \$509,963 (sum of “San Rafael recommended Funds” in Attachment 2). A total allocation maximum of \$96,634 can be used for public services, a minimum of \$210,080 must be spent on housing, and the remaining \$203,249 can be spent on either housing or capital projects.

Required Community Outreach and Analysis

HUD also requires all entitlement communities who are administering CDBG programs to conduct periodic assessments of need in the community to inform how federal grant funding should be spent, including CDBG and HOME Investment Partnerships Program (HOME) funds.

The two (2) primary reports required are the Consolidated Plan (ConPlan) and the Analysis of Impediments to Fair Housing Choice (AI). The findings from community outreach and analysis for both of these studies have informed the priorities for allocating funding recommendations within this staff report. To learn more about the AI and ConPlan processes and findings, see Attachment 3.

Federal Grant Program Enhancements

Through the ConPlan outreach process, two common themes arose that informed program enhancements:

- 1.) Increase minimum grant size to \$15K per year.
- 2.) Conduct application cycles every 2 years.

These two enhancements increase impact of funded organizations and enables nonprofit partners to better plan their programs. While applications are only received every two years, funding allocations must be approved annually based on the past performance of the project and expected funding allocated by HUD.

Evaluation Guidelines

All project applications are evaluated based on their ability to meet HUD’s national objective thresholds, the PSC’s enhanced thresholds for evaluating projects, and the standard project evaluation criteria as listed below:

National Objective Thresholds:

- Benefit low-and-moderate-income persons.

- Prevent or eliminate blight or meet other community development needs for low-and moderate-income persons.

PSC Enhanced Thresholds:

- Support projects that Affirmatively Further Fair Housing and have the commitment and capacity to engage in Affirmative Marketing¹.
- Prioritize projects that serve members of the protected classes as defined by HUD.
- Prioritize projects that serve low-income persons.

Project Evaluation Criteria:

- Readiness--can awarded funds be completely expended during the grant year?
- Sustainability—does the organization have the capacity to sustain a project or program beyond this federal funding period?
- Effectiveness and Accountability—does the organization have the capacity and track record to effectively conduct the project and administer federal funds?
- Prioritize greatest impact.

In addition to the criteria set forth by HUD, the ConPlan and AI process, the Countywide Priority Setting committee established priorities for funding CDBG and HOME housing projects:

- 1.) Family Housing²
- 2.) Land trust model in eastern Marin that provides home ownership opportunities (Eastern Marin is defined as all of the areas in Marin, except West Marin).

The PSC also established the following priorities for CDBG funds allocated to public service projects:

1. **Basic Health Services**—includes services that prevent or treat medical conditions for individuals who are uninsured, under-insured, or people with low incomes who cannot afford their deductible. Programs and services include preventive health such as immunizations, well-childcare, periodic health evaluations for adults, voluntary family planning services, children's eye and ear examinations conducted to determine the need for vision and hearing correction, and hygiene services. Services may also include medically necessary emergency health care, inpatient and outpatient treatment, diagnostic laboratory and diagnostic and therapeutic radiologic services, and prescription drugs.
2. **Children, Youth and Parent Support Services**—includes services that address disparities in access to early childhood education and the high costs of childcare, targeting low-income families. Programs and services include supporting childcare

¹ Affirmative Marketing is targeted outreach about program opportunities to groups of people otherwise least likely to apply for or receive those opportunities. Given Marin's history of segregation, the protected class populations typically included in Affirmative Marketing are Black/African American, Asian/Pacific Islander, and Latinx. Programs that do not conduct broad affirmative marketing are less competitive in the allocation process. An example of a less competitive application this cycle is Canal Alliance. While they serve the Latinx population the program does not affirmatively market to other protected classes.

² Family Housing has been identified as a need to both the AI and ConPlan. In addition, HUD is requiring Marin's CDBG and HOME grant funding to contribute to the creation of at least 100 new family housing units by 2022. Applications for projects not creating family housing this year are Whistlestop and Homeward Bound.

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 4

scholarships, student extracurricular activities, parent engagement and training, therapeutic services, teacher's salaries, transportation and home visitations.

- Housing Support Services**—includes services that assist individuals in accessing stable housing, prevent discrimination in housing choice, and aid renters in maintaining stable housing. Programs and services include but are not limited to fair housing counseling, legal support, housing locators, down payment and rental assistance.

ANALYSIS

The CDBG funding recommendations for FY20-21 have been vetted through the Countywide Priority Setting Committee that consists of one County Supervisor, a representative from each of the City and Town Councils, as well as seven community members representing six regions spanning Marin and an at-large member representing the County.

In early May, the Board of Supervisors will hold a final public hearing on the recommendations from the Countywide (PSC), and in mid-May, the County will send its annual list of projects to the US Department of Housing and Urban Development (HUD).

Seven (7) housing projects submitted applications for funding from the San Rafael Planning Area. The seven projects have a funding request of \$3,421,545. Five (5) of the seven projects will benefit the entire County, a subset of services and units will serve San Rafael residents.

There were also two (2) projects based in San Rafael with a total funding request of \$611,545 (Bridge Housing – Centertown at \$345,000 + San Rafael Rotary Manor at \$266,545 – See Attachment 2). The combined requests for both the San Rafael specific project and the San Rafael portion of the Countywide projects is \$1,491,170.

Funding Recommendations

HOUSING PROJECTS

PSC recommends the following housing applications, totaling \$258,001 in available CDBG grant funds.

Organization	FY 20-21 San Rafael Requested	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
Eden Housing, Inc. (CHDO) <i>Whistlestop Healthy Aging Campus</i>	\$591,300	-	\$1,500,000	\$442,612
Habitat for Humanity Greater San Francisco, Inc. <i>Redwood Blvd. Homes</i>	\$98,550	\$98,079	\$250,000	\$216,275
Homeward Bound of Marin <i>Predevelopment and Construction of Veterans and Workforce Housing in Novato</i>	\$49,275	-	\$125,000	\$0***
Marin Center For Independent Living <i>Residential Access Modification Program</i>	\$30,000	\$9,922	\$60,000	\$30,922
Marin Housing Authority		\$100,000	\$425,000	\$230,095

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 5

<i>Residential Rehabilitation Loan Program (RLP)</i>	\$110,500			
Bridge Housing <i>Centertown Apartments</i>	\$345,000	\$50,000	\$795,000	\$500,000
San Rafael Rotary Manor <i>Rotary Manor Window Rehabilitation</i>	\$266,545	-	\$266,545	\$0
Grand Totals	\$1,491,170	\$258,001	\$3,421,545	\$1,419,904

* *Countywide request*

** *The Expected Countywide Funding includes anticipated recommendations for all Planning Areas and HOME.*

*** *This project will be considered for a higher allocation in FY 2021-22*

CAPITAL PROJECTS

Five (5) applications for capital projects were received—four (4) Countywide projects and one (1) serving San Rafael only. The Countywide projects benefiting the entire County, including services for San Rafael residents, have a funding request of \$798,355.

The one (1) project based in San Rafael has a total funding request of \$270,000.

Recommended for Funding

PSC recommends funding requests for capital projects totaling \$155,328 in CDBG monies.

Organization	FY 20-21 San Rafael Request	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
Community Action Marin <i>CAM Community Intake/Welcome Ctr.</i>	\$29,536	\$10,000	\$98,455	\$35,000
Homeward Bound of Marin <i>Building a Gender-Neutral Bathroom at the New Beginnings Center Shelter</i>	withdrawn	-	withdrawn	-
Marin City Community Development Corporation <i>Empowerment Clubhouse Pre-Construction and Development</i>	\$109,161	\$80,000	\$279,900	\$151,041
Marin City Community Services District <i>Manzanita Center Facility Master Plan</i>	\$30,000	-	\$150,000	-
City of San Rafael Department of Public Works <i>Canal Area Pump Station Improvements</i>	\$270,000	\$65,328	\$270,000	\$65,328***
Grand Totals	\$438,697	\$155,328	\$798,355	\$251,369

* *Countywide request*

** *The Expected Countywide Funding includes anticipated recommendations for all Planning Areas.*

*** *This project will be considered for a higher allocation in FY 2021-22*

PUBLIC SERVICE PROJECTS

Based on County estimates, the City is expected to receive an allocation of approximately \$96,634 for public services in 2020-21. This 15% allocation is based on the total funding available including entitlements, program income and any reprogrammed funds. Whereas, the overall allocation to each planning area is a percentage of these totals, less the allowed administration allocation. Due to this, the amount available for Public Services is higher than a straight 15% of San Rafael allocation allotment.

A total of 18 applications for public service funding were submitted—16 Countywide projects with a portion of services going to San Rafael residents and two (2) serving San Rafael only.

Recommended for Funding

PSC recommends funding requests for public service projects totaling \$96,634 in CDBG monies, the maximum allowed by HUD.

Organization	FY 20-21 San Rafael Requested	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
10,000 Degrees <i>Financial Aid Awareness and Completion Campaign</i>	\$15,300	-	\$30,000	-
Community Action Marin <i>CAM Economic Opportunity and Safety Net Services</i>	\$15,000	-	\$50,000	-
Covia Foundation <i>Home Match Marin</i>	\$12,900	\$8,000	\$30,000	\$15,000
Early Vibes Inc. <i>The Turn</i>	\$2,500	-	\$25,000	-
Fair Housing Advocates of Northern California <i>Fair Housing Counseling and Education</i>	\$31,500	\$31,500	\$75,000	\$64,000
Family & Children's Law Center <i>Domestic Violence Legal Services for Low Income Families</i>	\$6,750	\$6,750	\$15,000	\$15,000
Hannah Project Partnership for Academic Achievement <i>Hannah Freedom School</i>	\$6,260	-	\$31,300	\$15,000
House of Life Ministries <i>Family First</i>	\$6,600	-	\$22,000	-
Jewish Family and Children's Services <i>Jewish Family and Children's Services, Skyview Day Club Financial Assistance Program</i>	\$9,900	-	\$30,000	-
Legal Aid of Marin <i>Keeping Marin Residents in their Homes</i>	\$20,400	\$20,384	\$40,000	\$32,640
Marin City Community Services District <i>MCCSD Manzanita Center</i>	\$3,000	-	\$30,000	-

<i>Free Youth Recreation Programs</i>				
Performing Stars of Marin After School and Summer Enrichment Programming of Low-Income Marin County Youth	\$750	-	\$15,000	\$15,000
Project Avary Support Service for Children of Incarcerated Parents	\$7,500	-	\$15,000	-
RotaCare Bay Area RotaCare Clinic of San Rafael	\$16,000	\$15,000	\$20,000	\$15,000
Spahr Center Readiness for Housing Program	withdrawn	-	withdrawn	-
Women's Rights and Peace of Bay Area Korean Education Project (KEP)	\$7,500	-	\$15,000	-
Canal Alliance University Prep (UP!)	\$30,000	-	\$30,000	-
City of San Rafael, Library And Recreation Department Pickleweed Preschool	\$49,440	\$15,000	\$49,440	\$15,000
Grand Totals	\$241,300	\$96,634	\$522,740	\$186,640

* Countywide request

** The Expected Countywide Funding includes anticipated recommendations for all Planning Areas.

A list of all the applications that were submitted for the San Rafael Planning Area and Countywide projects serving San Rafael is provided in Attachment 2. This attachment also includes staff recommendations for allocating all of San Rafael's CDBG funds and the total expected allocations including funding from the other planning areas. The applications for all funding can be accessed online via these links:

Housing project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-housing-applications3.pdf?la=en

Community Infrastructure/Capital project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-community-infrastructure_capital-improvement-applications3.pdf?la=en

Public Services project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-public-services-applications1.pdf?la=en

FISCAL IMPACT:

There is no direct cost or revenue impact generated by the recommended action as the City is directing HUD funds to specific projects. Allocating funds to potential City projects may allow City general and capital funds to be allocated to other priorities.

OPTIONS:

1. Make allocations of CDBG funding as recommended by staff.
2. Make different allocations of CDBG funding. (Funds may be shifted within categories, but the Public Service category cannot exceed \$96,634.)
3. Let the Countywide Priority Setting Committee provide a recommendation for the San Rafael Planning Area funding requests.
4. Provide direction to staff.

ACTION REQUIRED:

1. Adopt Resolution recommending CDBG project funding for the FY 2020-21 CDBG program to the Marin County Board of Supervisors.

ATTACHMENTS

- | | |
|--------------|---|
| Attachment 1 | City of San Rafael Resolution CDBG Project Funding for FY 2020-21 |
| Attachment 2 | Attachment to Resolution: 2020-21 CDBG Project Allocations |
| Attachment 3 | Required Community Outreach and Analysis |
| Attachment 4 | PSC 2020-2021 Roster |
| Attachment 5 | 2020-2022 CDBG Application Guidelines |

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL RECOMMENDING
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT FUNDING FOR
THE FISCAL YEAR 2020-21 TO THE MARIN COUNTY BOARD OF SUPERVISORS**

BE IT RESOLVED by the Council of the City of San Rafael as follows:

WHEREAS in June 1999, the City Council revised the Cooperation Agreement with the County of Marin for Community Development Block Grant (CDBG) funds whereby the City remained in the County system; and

WHEREAS in December 1999, the City devised a project selection process and established allocation priorities for CDBG projects; and

WHEREAS on March 16, 2020, in accordance with the adopted project selection process the City Council reviewed the submitted applications;

NOW, THEREFORE IT IS HEREBY RESOLVED that the City Council recommends to the Marin County Board of Supervisors that the \$509,963 in CDBG funds available for allocation by the City of San Rafael be distributed to the projects and in the amounts as shown on the attached Attachment 2 subject to adjustments necessary to accommodate any changes in the final allocation given to the County of Marin by the federal Department of Housing and Urban Development (HUD).

I, LINDSAY LARA, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 16th day of March 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Lindsay Lara, City Clerk

Attachment 2

PROJECT #	PROJECT SPONSOR	PROJECT NAME	SAN RAFAEL SPECIFIC FUNDING REQUEST	SAN RAFAEL RECOMMENDED FUNDS	EXPECTED COUNTYWIDE FUNDING*
Housing					
CH-1-2020	Eden Housing, Inc. (CHDO)	Whistlestop Healthy Aging Campus	\$591,300	-	\$442,612
CH-2-2020	Habitat for Humanity Greater San Francisco, Inc.	Redwood Blvd. Homes	\$98,550	\$98,079	\$216,275
CH-3-2020	Homeward Bound of Marin	Predevelopment and Construction of Veterans and Workforce Housing in Novato	\$49,275	-	\$0
CH-4-2020	Marin Center For Independent Living	Residential Access Modification Program	\$30,000	\$9,922	\$30,922
CH-5-2020	Marin Housing Authority	Residential Rehabilitation Loan Program (RLP)	\$110,500	\$100,000	\$230,095
SH-1-2020	Bridge Housing	Centertown Apartments	\$345,000	\$50,000	\$500,000
SH-2-2020	San Rafael Rotary Manor	Rotary Manor Window Rehabilitation	\$266,545	-	\$0
San Rafael Housing Subtotal			\$1,491,170	\$258,001	\$1,419,904

Capital					
CC-1-2020	Community Action Marin	CAM Economic Opportunity and Safety Net Services	\$29,536	\$10,000	\$35,000
CC-2-2020	Homeward Bound of Marin	Building a Gender-Neutral Bathroom at the New Beginnings Center Shelter	\$8,750	-	-
CC-3-2020	Marin City Community Development Corporation	Empowerment Clubhouse Pre-Construction and Development	\$109,161	\$80,000	\$151,041
CC-4-2020	Marin City Community Services District	Manzanita Center Facility Master Plan	\$30,000	-	-
SC-1-2020	City of San Rafael Department of Public Works	Canal Area Pump Station Improvements	\$270,000	\$65,328	\$65,328
San Rafael Capital Subtotal			\$447,447	\$155,328	\$251,369

Attachment 2

PROJECT #	PROJECT SPONSOR	PROJECT NAME	SAN RAFAEL FUNDING REQUEST	SAN RAFAEL RECOMMENDED FUNDS	EXPECTED COUNTYWIDE FUNDING*
Public Services					
CS-1-2020	10,000 Degrees	Financial Aid Awareness and Completion Campaign	\$15,300	-	-
CS-2-2020	Community Action Marin	CAM Community Intake and Welcome Center	\$15,000	-	-
CS-3-2020	Covia Foundation	Home Match Marin	\$12,900	\$8,000	\$15,000
CS-4-2020	Early Vibes Inc.	The Turn	\$2,500	-	-
CS-5-2020	Fair Housing Advocates of Northern California	Fair Housing Counseling and Education	\$31,500	\$31,500	\$64,000
CS-6-2020	Family & Children's Law Center	Domestic Violence Legal Services for Low Income Families	\$6,750	\$6,750	\$15,000
CS-7-2020	Hannah Project Partnership	Hannah Freedom School	\$6,260	-	\$15,000
CS-8-2020	House of Life Ministries	Family First	\$6,600	-	-
CS-9-2020	Jewish Family and Children's Services	Jewish Family and Children's Services, Skyview Day Club Financial Assistance	\$9,900	-	-
CS-10-2020	Legal Aid of Marin	Keeping Marin Residents in their Homes	\$20,400	\$20,384	\$32,640
CS-11-2020	Marin City Community Services District	MCCSD Manzanita Center Free Youth Recreation Programs	\$3,000	-	-
CS-12-2020	Performing Stars of Marin	After School and Summer Enrichment Program	\$750	-	-
CS-13-2020	Project Avary	Support Service for Children of Incarcerated Parents	\$7,500	-	-
CS-14-2020	RotaCare Bay Area	RotaCare Clinic of San Rafael	\$16,000	\$15,000	\$15,000
CS-15-2020	Spahr Center	Readiness for Housing Program	\$56,749	-	Withdrawn
CS-16-2020	Women's Rights and Peace of Bay Area	Korean Education Project (KEP)	\$7,500	-	-
SS-1-2020	Canal Alliance	University Prep (UP!)	\$30,000	-	-
SS-2-2020	City of San Rafael, Library And Recreation	Pickleweed Preschool	\$49,440	\$15,000	\$15,000
San Rafael Public Services Subtotal			\$298,049	\$96,634	\$171,640

* The Expected Countywide Funding includes anticipated recommendations for all Planning Areas and HOME.

**Required Community Outreach and Analysis:
2020 Analysis of Impediments to Fair Housing Choice &
2020-24 Consolidated Plan**

2020 Analysis of Impediments to Fair Housing Choice: Summary of Key Findings, Conclusions, and Recommendations

The U.S. Department of Housing and Urban Development (HUD) requires jurisdictions receiving federal grant funds for housing and community development to certify that they are taking actions to affirmatively further fair housing (AFFH). Under both the CDBG and HOME programs, the County is required to certify whether it, and the participating cities and towns, are taking actions and documenting those actions that affirmatively further fair housing. Affirmatively furthering fair housing means, according to HUD, "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

From 2016 to 2019, County staff engaged with over 2,700 individual residents, community groups, nonprofits, youth, and County employees, among others, to develop a comprehensive understanding of housing challenges in Marin and to hear recommendations for addressing those housing challenges. The recommendations and findings contained in this report are a direct result of the County's robust community engagement process and its commitment to setting locally-determined fair housing priorities and goals.

A Community Advisory Group and Steering Committee were formed to analyze local, demographic data and engage in comprehensive discussions about race, segregation and integration patterns in Marin, and why where you live matters. The groups reviewed and discussed data on homeowners and renters in Marin, legal and illegal housing advertisement, the cost of housing in Marin, household incomes, the results of the County's 2015 Rental Housing Survey, and anticipated housing needs as the number of adults age 60 and over in Marin continues to grow.

The 2020 Analysis of Impediments to Fair Housing Choice provides information on the current population and housing needs of Marin County, with an emphasis and focus on the needs of racial and ethnic minorities, families with children, persons with disabilities, and other members of the protected classes.

The general conclusion is that whether assessed on a national, regional or local level, where you live matters - particularly for people of color, those with disabilities, families and other members of the protected classes. A person's zip code can predict their life expectancy, their ability to attend good schools, opportunities for employment, transportation options and quality housing.

The County’s goal is to increase, expand and maintain its affordable housing inventory and to increase opportunities for housing choice for low income residents, people of color, people with disabilities and residents who have specifically been impacted by historic government policies and practices that created segregated communities in Marin and who continue to be marginalized today. To that end, after years of community engagement and changes in the County’s development codes, zoning policies, funding strategies and collaborations with cities and towns, four overarching priorities were identified to address impediments to fair housing choice:

- Community opposition;
- Cost of developing affordable housing and the lack of available land for development;
- Lack of affordable housing, particularly family rental housing;
- Lack of homeownership, particularly for African Americans.

Impediment #1 - Community Opposition to Affordable Housing

Through the County’s community engagement and outreach process, which included the County’s Community Advisory Group, Steering Committee, and voices from individual residents, local groups, organizations, and nonprofits, among others, community opposition was identified as the number one reason for the lack of affordable housing development in the County, particularly for families and in areas outside of minority concentration. Opposition to any new housing development can arise in all neighborhoods of the County, but it is especially the case in majority White neighborhoods, and particularly when the proposed development is affordable rental housing for families. The opposition is often based primarily on common growth issues such as traffic congestion, perceived threats to open space preservation, water demand versus supply, and increased school enrollment. However, opposition can also reflect underlying fears of reduced property values, safety concerns, the misperceptions of the type of housing that would be created, and the stereotyped impressions of the people who will occupy the housing.

An increased understanding about affordable rental housing and the positive impact it has on individuals, families, and the community at large is instrumental to gaining wider community support. The more informed the public, local government, County staff, and elected officials are about the need for affordable rental housing and the benefits of avoiding housing insecurity and homelessness, the more leverage supporters will have to advance the development of affordable rental homes.

Recommendations

1. Provide ongoing community engagement to educate, include and inform residents about the challenges with housing in Marin, and to highlight the County’s prior achievements in developing affordable housing and addressing racial disparities in housing choice.
2. Develop strategies and talking points to address opposition for development including the impact on schools, water, transportation and traffic.
3. Include and expand the number of participants who engage in discussions about barriers to fair housing and disparities in access and opportunities in Marin’s communities, and provide opportunities to advance recommendations to address housing challenges in the County.
4. In keeping with the County’s 2019 Voluntary Compliance Agreement with the Department of Housing and Urban Development, prioritize the development and funding for rental housing for families, particularly in areas outside of minority concentration.

Impediment #2 - The Cost of Developing Affordable Housing

The cost of developing affordable housing in Marin is prohibitive even after accounting for funding from grants, loans, direct and indirect subsidies, tax credits and private donors. While many Marin communities require that developers of multi-unit housing set aside a percentage of units as affordable housing, and the County's Housing Trust Fund provides financial assistance to help affordable housing developers create and preserve affordable housing for low and very-low income households, some cities and towns do not have inclusionary policies or affordable housing impact fees, and for some jurisdictions, the housing trust account balances are too low to be useful. In addition, in-lieu fees which, in some cases may be paid by developers instead of constructing affordable housing, do not reflect the actual cost of building affordable housing in the County.

Recommendations

1. The County should consider ways to provide a local dedicated source of funding for affordable housing. Options could include bonds, local sales tax, transit occupancy tax, vacant home tax or other measure to raise funds that create and preserve local affordable housing for low-income households, veterans, seniors, teachers, first responders, persons with disabilities, and those experiencing homelessness.
2. The County should work with cities and towns to pool in-lieu fees to increase funds available for affordable housing and determine whether to increase the amount of in-lieu fees to better reflect the actual cost of affordable housing development.
3. The County, cities and towns should consider a sub-regional approach for the allocation of housing (Regional Housing Needs Allocation), to share resources and possibly units to increase collaboration and production of housing.
4. The County should work with cities and towns to adopt inclusionary housing policies to bolster funds available to support affordable housing.
5. The County should encourage cities and towns to reduce or waive fees for affordable housing.

Impediment #3 - Lack of Affordable Housing Sites

Developers and members of the community are unaware of potential affordable housing sites across the County. Because of this lack of knowledge, opportunities to purchase land or properties may reduce the availability for affordable housing development.

Recommendations

1. Prepare and publicize available and easily obtainable maps of all incorporated and unincorporated vacant and underutilized parcels in Marin. Housing sites identified by the County, cities and towns in their respective Housing Elements could be the basis for this information. Additional potential housing sites should also be considered when preparing the maps.
 - a. Provide public updates and market to affordable housing developers, and
 - b. Prioritize the VCA commitment to 100 units for family housing for these parcels.
2. Identify underutilized parcels in the County to acquire, convert and develop into affordable housing.
 - a. Post/advertise information on the County's website and update continuously.
 - b. Identify whether parcels are privately or publicly held and if there are any public right of ways.
3. Create a public database of potential sites that can be updated regularly.

- 4. As part of the County’s next Housing Element, consider rezoning sites to increase density to accommodate multi-family housing in areas outside of areas of minority concentration to further local housing goals and to comply with State housing law, and consider objective development and design standards for housing development projects that qualify for streamlined permit review.

Impediment # 4 - Lack of Opportunities for Home Ownership by People of Color and On-going Concerns of Gentrification

The price of housing in Marin is unaffordable for most residents, but because of historic, discriminatory practices and government policies, African Americans – in particular, people who lived in Marin City during the Marinship years -- have been particularly affected by policies that have created segregated communities with limited access to opportunities.

In addition, gentrification of some Marin communities is forcing people of color and low-income residents to be priced out of their own neighborhoods. Designating land for the purpose of developing affordable housing that will remain affordable in perpetuity will create opportunities for home ownership while acknowledging and affirmatively furthering fair housing. Transforming racially and ethnically concentrated areas of poverty into areas of opportunity can preserve existing affordable housing and protect existing residents from displacement.

Recommendations

Work with communities to provide resources to support a community land trust for low income residents of Marin that create opportunities for affordable housing and home ownership, with specific inclusion for African Americans with historic connections to Marin City. Model after the Community Land Trust of West Marin (CLAM) to ensure long-term housing affordability.

2020-24 Consolidated Plan: Summary of Key Findings

The Consolidated Plan (ConPlan) is a five (5) year strategic plan that identifies goals for federal funding programs provided through HUD, including the Community Development Block grant program (CDBG) and the HOME Investment Partnerships Program (HOME). The ConPlan provides a framework for identifying priorities and programs to address affordable housing, community development needs, and public services for extremely low-up to moderate-income families, persons with disabilities, seniors, and youth.

Understanding the needs of a community is critical to planning the use of federal grant funds. As part of the 2020-24 Consolidated Planning process, Housing and Federal Grants staff (Staff) engaged the community using various methods to gather information about housing, community spaces and infrastructure, and public service needs in Marin. In addition, staff reached out to other jurisdictions implementing federal grant programs to learn smart practices to improve impact and effectiveness of Marin County’s federal grants program. Results from the community engagement and interview process shall guide future planning and program design for the County of Marin’s federal grants program.

Over the course of six (6) months County staff engaged the community in four ways: a community survey, service provider survey, community meetings, and interviews.

Methodology

Community Survey



Online and paper surveys available in English, Spanish, and Vietnamese were used to gather community input to inform funding priorities. Surveys were disseminated in partnership with local nonprofit service and housing providers and County departments including Health and Human Services and the Marin County Free Library. To enhance and encourage participation staff attended numerous community events, including weekly Health Hubs organized through the Marin Community Clinics in both Novato and San Rafael, the Canal Alliance food pantry, and events put together by local organizations, including Community Action Marin, the Marin Organizing Committee, and Performing Stars. A total of 322 surveys were collected, with 229 in English, 92 in Spanish, and one (1) in Vietnamese.

Service Provider Survey

An online service provider survey was distributed to over 50 organizations in Marin County. Twenty-five (25) surveys were completed by organizations that provide a wide range of services including childcare, senior, parent support, case management, basic health, and food security services. Survey respondents were asked about their biggest demand for services, funding gaps, and demographic information about their service population.



Community Meetings



In collaboration with Marin Health and Human Services, over the course of four (4) months staff lead seven (7) community meetings and focus groups to gather data. The meetings were held across the County including in Marin City, Kentfield, Novato, San Rafael, West Marin and one meeting in the Canal Neighborhood of San Rafael was held entirely in Spanish. Nearly 300 people participated in these meetings.

Interviews

Staff reached out to 15 local government entities in Marin for interviews to garner insights into client and service trends, funding available, and demand for services. Of the interviews requested staff were able to conduct 11 interviews—two (2) cities, eight (8) County departments/divisions, and one (1) community service district.



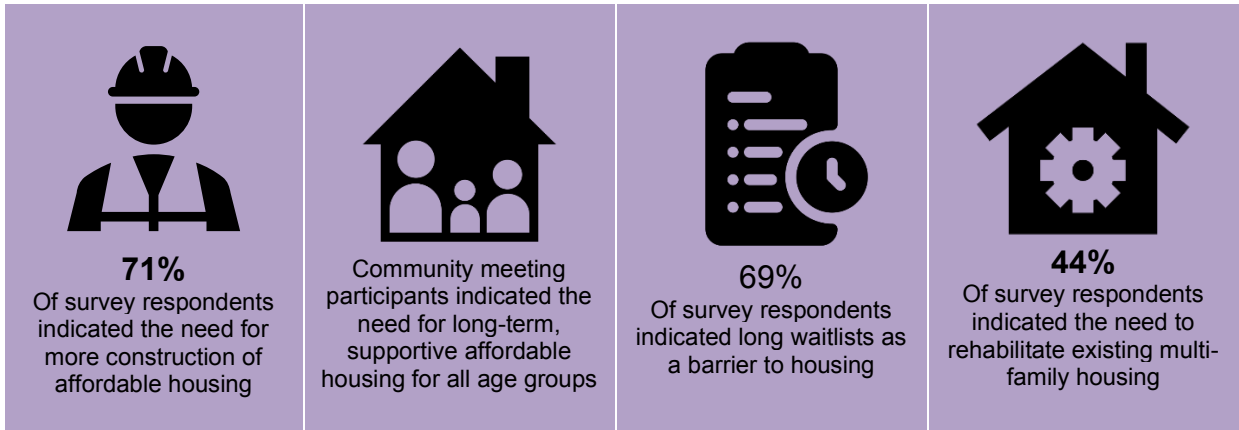
In addition, staff did outreach to nine (9) neighboring jurisdictions that administer federal grant programs similar to Marin's. Of those, five (5) neighboring jurisdictions were interviewed to identify trends and practices that could be applied to Marin's program.

Findings

Data from community surveys, service provider surveys, community meetings, and interviews with jurisdictions were synthesized into the priorities listed below. Respondents involved in the engagement process discussed concerns and provided specific comments about issues related to housing, community infrastructure, and public services. These concerns are articulated here as general findings that will be used to inform priorities. For example, comments regarding a leaking roof in a community center were included in a statement about improving and creating new community centers.

Housing

The findings related to housing focused on constructing, rehabilitating, and preserving affordable housing that could fit the needs of all demographics. The most commonly referenced populations included: families, single individuals, seniors, and populations in need of supportive housing. Most comments specifically related to rehabilitation of existing affordable housing focused on addressing substandard conditions. Respondents commented on the lack of housing affordable to extremely low-income households, and long and inaccessible waitlists.



Top Four Identified Housing Needs from Community Survey

Community infrastructure

Related to community infrastructure comments ranged from references to specific rooms and buildings, to discussions about infrastructure systems in cities and towns. Many respondents found that communities lacked new and improved community centers for all age ranges, social groups,



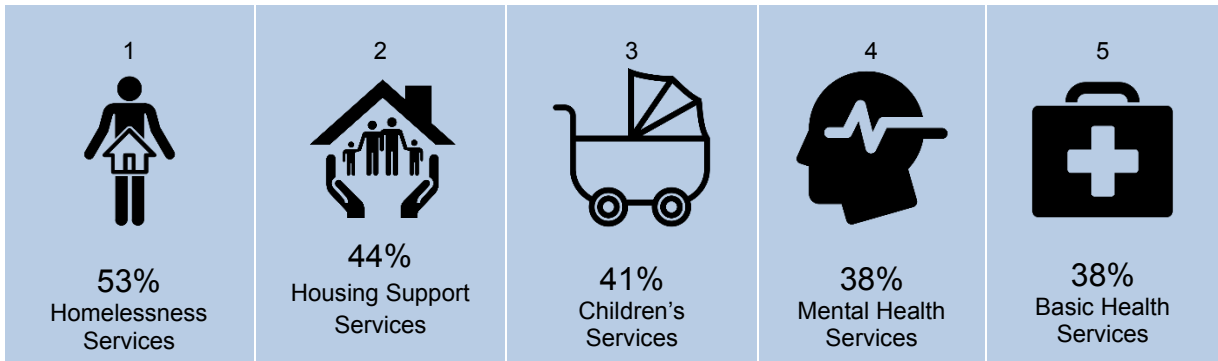
Top Three Identified Community Infrastructure Needs from Community

and needs, including childcare facilities, youth centers, senior centers, and LGBTQ centers. Additionally, respondents showed interest in more informal community gathering spaces. Respondents stated that their communities lack well maintained parks and public spaces, as well as homeless shelters/facilities. Most respondents mentioned the importance of protecting communities from natural disasters by improving infrastructure. Finally, transportation infrastructure improvements were mentioned in most surveys and comments, more specifically related to transit route frequency and reliability and safety measures such as adequate sidewalks and lighting were noted.

Public Services

The findings summarized for public services demonstrate the range of diverse needs in Marin County. One of the services discussed most frequently was “homeless services.” Homeless services fit under a larger classification of services that benefit those who are homeless and in danger of becoming homeless. Several of the services mentioned in the findings below are intended to serve these populations. Therefore, homeless services can

translate into a wide array of services. For example, housing support services and legal services were two of the most commonly mentioned needs, and these services can support populations that are homeless or in danger of becoming homeless. Services for families including children’s services and parent support services were mentioned in most surveys and community meetings. Respondents specified that basic health services for all age ranges were needed throughout the county. Services for very specific populations including seniors and domestic violence victims were mentioned in a majority of survey responses and at several community meetings. Food security was listed as a priority for vulnerable populations. Language acquisition and education along with job training and microenterprise



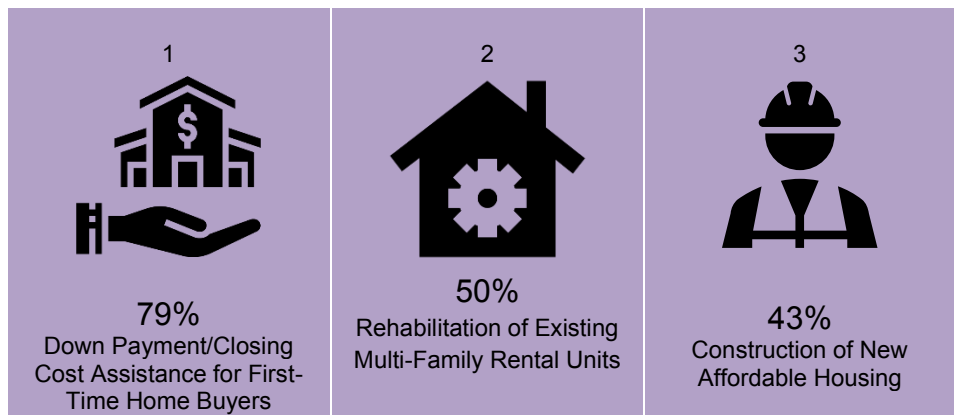
business support were mentioned in many responses regarding public service needs.
Top Five Identified Public Service Needs from Community Survey

Community-Specific Needs

A few of Marin’s federal grant program’s target populations and communities including Marin City, West Marin, and Marin’s Spanish speaking population expressed their community-specific needs and priorities at their respective community meetings. The community survey data was disaggregated by community to allow Staff to pinpoint and highlight these priorities.

Marin City Housing

Marin City’s housing priorities differ from overall survey respondents and indicates a need for more financial assistance for first-time home buyers, rehabilitation of existing multi-family rental



Top Three Identified Housing Needs from Community Survey Amongst Marin City

housing, and some construction of new affordable housing. This community faces gentrification and displacement pressures which may explain why rehabilitating and securing homeownership for existing residents is a priority over the development of new housing in the community.

Community Infrastructure

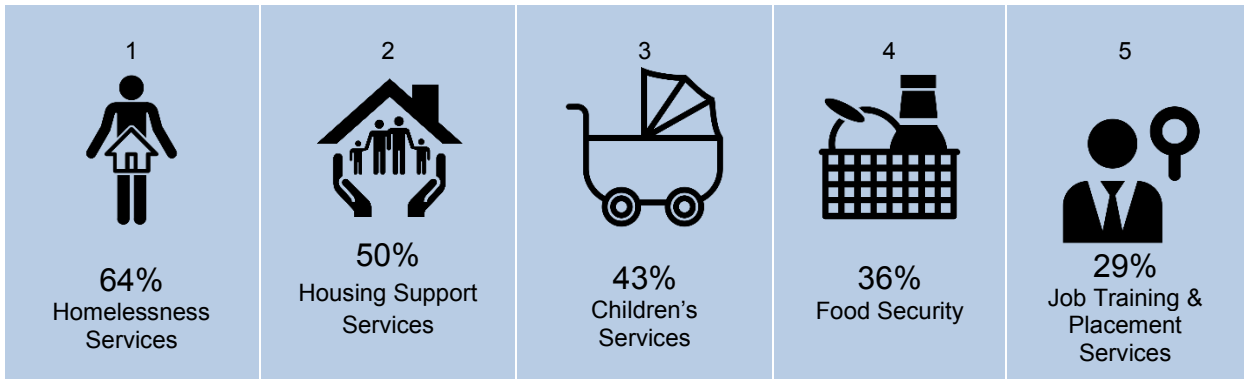
With regards to community infrastructure, like overall respondents, Marin City residents also indicated a priority to focus on homeless facilities/shelters, followed by an interest in more community gardens and gathering spaces, and improvements to nonprofit facilities.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst Marin City Residents

Public Services

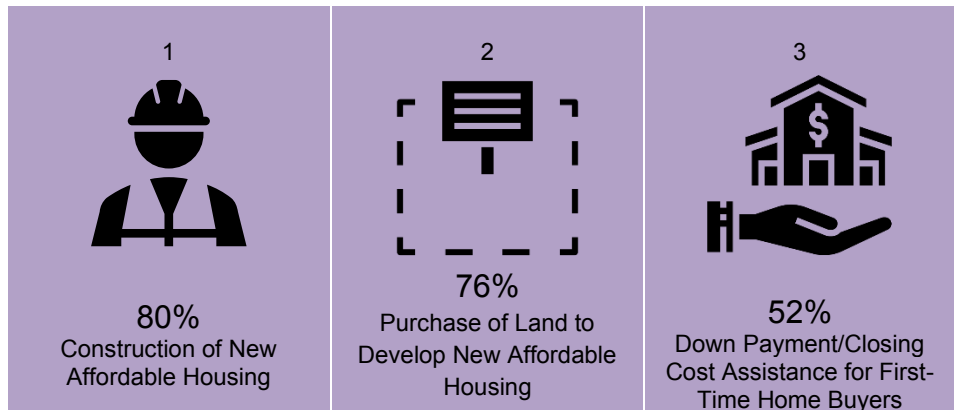
Public service priorities in Marin City follows a similar trend to the County as a whole. However, after homelessness services, housing support services and children’s services—Marin City’s specific needs for food security and employment readiness are highlighted.



Top Five Public Service Needs from Community Survey Amongst Marin City Residents

West Marin Housing

West Marin’s housing needs are largely related to the need for more housing, specifically affordable housing, through the construction of more housing and the purchase of land to allow

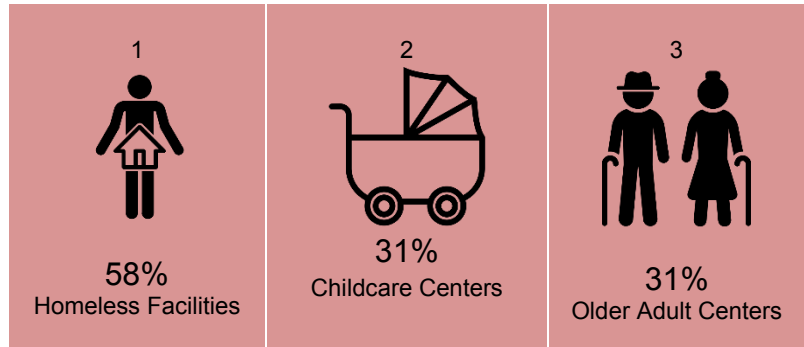


Top Three Identified Housing Needs from Community Survey Amongst West Marin

for more development of affordable housing. West Marin residents also highlighted the need for more financial assistance to first-time home buyers.

Community Infrastructure

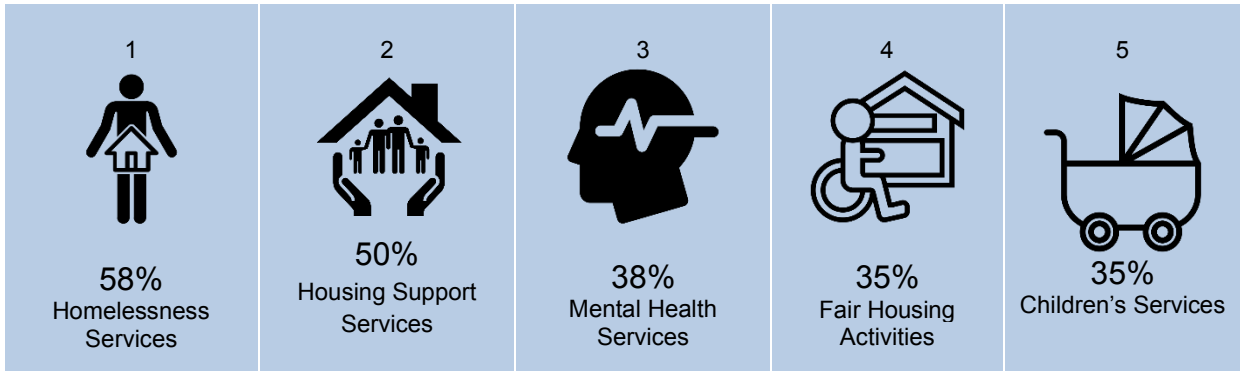
With regards to community infrastructure, West Marin residents indicated the need for facilities across age groups and needs. After homeless shelters/facilities, West Marin highlighted the need for childcare centers and older adult centers.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst West Marin Residents

Public Services

Public service needs in West Marin are also similar to the County: beyond homelessness services, housing support services, and children’s services—West Marin expressed priorities related to mental health services and fair housing activities.

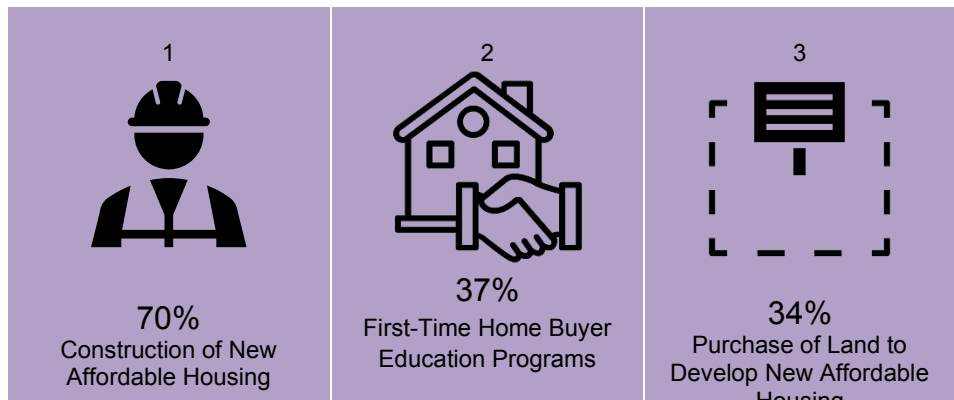


Top Five Public Service Needs from Community Survey Amongst West Marin Residents

Spanish-Speaking Respondents

Housing

Spanish speaking respondents indicated a need for more affordable housing, through the construction of more housing and the purchase of land to allow for more

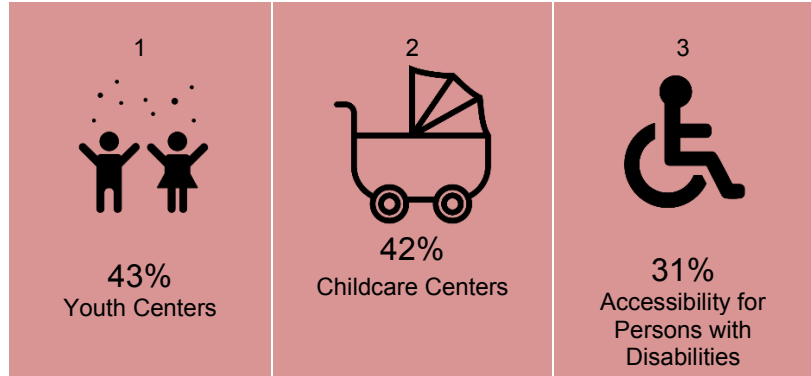


Top Three Identified Housing Needs from Community Survey Amongst Spanish-Speaking Residents

development. Spanish speaking respondents also indicated the need for more education programs for first-time home buyers, highlighting the need for housing education programs in Spanish.

Community Infrastructure

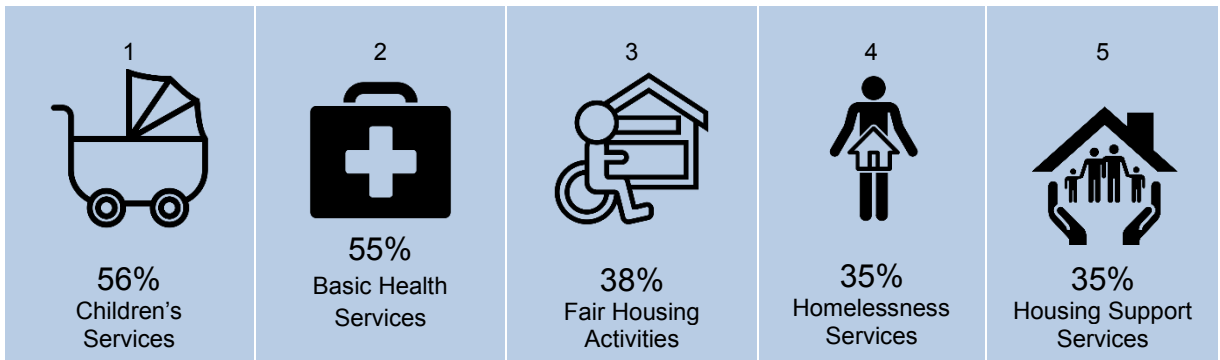
Spanish speaking residents of Marin County also pinpointed the need for youth centers, childcare centers and the need for accessible facilities for persons with disabilities. This highlights the community’s consistent priority around improved or new community gathering spaces, especially for youth in the Canal neighborhood of San Rafael.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst Spanish-Speaking Residents

Public Services

Public service priorities amongst Spanish-speaking residents in Marin shows a need for children’s services, basic health services, fair housing activities, homelessness services, and housing support services. It is critical to note that many survey respondents in Spanish indicated that they are a one income household, largely due to the high cost of childcare.



Top Five Public Service Needs from Community Survey Amongst Spanish-Speaking Residents

2020-2021 Countywide Priority Setting Committee

Name	Affiliation
Claire McAuliffe	City of Belvedere
Vacant	City of Larkspur
Stephanie Moulton-Peters	City of Mill Valley
Denise Athas	City of Novato
John Gamblin	City of San Rafael
Joe Burns	City of Sausalito
Judy Arnold	County of Marin
David Kunhardt	Town of Corte Madera
Barbara Coler	Town of Fairfax
Alexis Fineman	Town of San Anselmo
Holli Their	Town of Tiburon
Cathy Cortez	At-Large Community Representative
Moses Gittens	Lower Ross Community Representative
Veda Florez	Novato Community Representative
Peggy Woodring	San Rafael Community Representative
Sylvia Bynum	Southern Marin Community Representative
PJ Feffer	Upper Ross Community Representative
Jorge Martinez	West Marin Community Representative

2020-22 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM APPLICATION GUIDELINES

Application logistics:

Application Process and Timing

- Applications will be open on **Monday, January 6, 2020**.
- Application Preparation (Bidders Conference): Wednesday, January 15th, 2020 at the Marin County Civic Center, Board of Supervisors Chambers, 3501 Civic Center Drive, Room 330, San Rafael, CA 94903
 - 1:00 P.M. to 2:00 P.M. - Public Service Projects
 - 2:30 P.M. to 3:30 P.M. - Community Infrastructure/Capital and Housing Projects
- Applications will be due on **Thursday, February 6, 2020, no later than 5:00 PM. POSTMARKS WILL NOT BE ACCEPTED.**
- Federal Grants staff will review applications in February and March.
- Public hearings for each of the three Planning Areas to determine recommendations will be held March-April 2020.
- The Board of Supervisors will hold the final public hearing to confer recommendations on all of the applications in May and transmit the recommendations to HUD.

Application submittal

Submissions may be made via online, email, mail, or in person to one of the addresses below.

- Emailed applications should be sent to this address **ONLY**: federalgrants@marincounty.org
- Mailing address/physical address (if dropping off application):
County of Marin
3501 Civic Center Drive #308
San Rafael, CA 94903
Attn: Federal Grants

Application Content

- *****NEW***** Transitioning from a one (1) year application cycle to a two (2) year application cycle.
- The minimum grant size is \$15,000 per year.
- Organizations may only apply for **one project** in each category of funding. (Ex. An organization may apply for funding under the Public Service category and the Community Infrastructure/Capital category.
- **Only complete applications submitted on time will be considered for funding.**
- Complete applications include the **application document, project budget, and organization budget.**

Average Grant Size

- Public service grants are typically awarded between \$15,000 and \$30,000.
- Community Infrastructure/Capital improvement grants range from \$15,000 to \$150,000, depending on the project scope.
- Housing grants vary from \$30,000 to \$500,000, depending on the project scope.

Eligible Applicants and Projects

- Applicants must either be a nonprofit, government entity, or have a fiscal sponsor that is a nonprofit or government entity. Individuals are not eligible for funding.
- To ensure affordable housing is dispersed through the county, CDBG and HOME funds cannot be used for housing projects in the Canal Neighborhood of San Rafael or Marin City.
- To learn more about eligible and ineligible activities, review these guides to eligible CDBG activities and eligible HOME activities.

Notice of Funding Availability: Community Development Block Grant (“CDBG”) and Home Investment Partnership Program (“HOME”) For 2020-22 funding cycle

The Marin County Community Development Agency’s Federal Grants Division is pleased to announce the opening of the application period for the CDBG and HOME programs.

Overview

Federal funding through the Community Development Block Grant (CDBG) program provides communities with resources to address a wide range of unique community development needs. The CDBG entitlement program allocates annual grants to larger cities and urban counties to develop thriving communities by providing funding to assist in the creation of affordable housing, a suitable living environment, and expanded economic opportunities for low and moderate-income persons. The Home Investment Partnerships Program (HOME) funds the creation, preservation, and rehabilitation of affordable housing for low income households. The programs are managed by the Federal Department of Housing and Urban Development (HUD).

National objectives for funding

Each activity funded by CDBG must meet one of the following national objectives for the program. Each application must clearly state which objective the proposed project addresses.

- Benefit low and moderate-income persons.
- Prevention or elimination of slums or blight.
- Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which no other funding is available.

Priority Setting Committee local thresholds for funding

All applications are assessed using the following as thresholds for funding:

- Support projects that Affirmatively Furthering Fair Housing and have the commitment and capacity to engage in Affirmative Marketing.
- Prioritize projects that serve members of the protected classes as defined by HUD (race, color, religion, national origin, sex, disability, and familial status).
- Prioritize projects that serve low-income persons.

Evaluation Criteria:

All applications are assessed on the following baseline criteria:

- Readiness—can awarded funds be completely expended during the grant year.
- Sustainability—does the organization have capacity to sustain a project or program beyond this federal

funding period?

- Effectiveness and Accountability—does the organization have the capacity and track record to effectively conduct the project and administer federal funds?
- Prioritize greatest impact.

The Countywide Priority Setting Committee has approved funding priorities for CDBG Housing and Public Services dollars that considers projects in the following categories first:

Funding priorities for CDBG Housing funds:

- Family Housing
- Land trust model in eastern Marin¹ that provides home ownership opportunities

Funding priorities for CDBG Public Service funds:

- Basic Health Services – includes services that prevents or treats medical conditions for individuals who are un-insured, under-insured, or people with low-incomes who cannot afford their deductible. Programs and services include but are not limited to preventative health such as immunizations, well-child care from birth, periodic health evaluations for adults, voluntary family planning services, children’s eye and ear examinations conducted to determine the need for vision and hearing correction, and hygiene services. Services may also include medically necessary emergency health care, inpatient and outpatient treatment, diagnostic laboratory and diagnostic and therapeutic radiologic services, and provision of prescription drugs.
- Children, Youth, and Parent Support Services – includes services that address disparities in access to early childhood education and high costs of childcare county wide targeting low-income families. Programs and services include but are not limited to supporting childcare scholarships, student extracurricular activities, parent engagement and training, therapeutic services, teacher’s salaries, transportation, and home visitations.
- Housing Support Services – includes services that assists individuals in accessing stable housing, prevent discrimination in housing choice, and aids renters in maintaining stable housing. Programs and services include but are not limited to fair housing counseling, legal support, housing locators, down payment and rental assistance.

While this priority list does not preclude the funding of other types of projects, it provides staff with further direction when evaluating applications that meet both the national and local baseline thresholds.

Project budgets:

Public Services:

Project budgets for all public service project applications should cover a 1-year time period only. Year two funding allocations will be based on the 1-year budget in relation to outcomes achieved and HUD funding levels.

Community Infrastructure/Capital and Housing:

Project budgets for community infrastructure/capital and housing project applications should be developed spanning a two-year time period, with specific outcomes and line items associated with each

¹ Eastern Marin in this case is defined as all of the areas of Marin, except for West Marin

year. If your project has received planning approvals, has an environmental review on file, and is ready to move forward in a 1-year time frame please indicate so.

Income verifying clients:

All applicants are required to income qualify beneficiaries of services provided with CDBG and HOME funds. Under CDBG regulations HUD presumes the following groups to be low-income and income verification is not required: abused children, battered spouses, the elderly, adult persons with serious disabilities, individuals who are homeless, illiterate persons, and migrant farm workers. Removal of architectural barriers to assist seniors and adults with severe disabilities would fall under this category of Presumed Benefit.

Key changes for 2020-22 fiscal year

- Transitioning from a one (1) year application cycle to a two (2) year application cycle.²
- The minimum grant size is \$15,000 per year.
- CDBG housing funds will first prioritize projects that provide Family Housing and/or Land trust model in eastern Marin that provides home ownership opportunities
- CDBG public service funds will first prioritize projects that provide Basic Health Services; Children, Youth, and Parent Support Services; and Housing Support Services
- Staff will pursue reprogramming of funds for projects that do not make substantial progress in the initial funding year.

Marin County CDBG Program Overview

All of the eleven cities and towns in Marin County and the County of Marin participate in the CDBG program through a cooperation agreement. The cooperation agreement is renewed every three years. The cooperation agreement allows Marin County to be defined as an “urban county”, having a population of over 200,000, and to receive a direct CDBG funding allocation. Novato and San Rafael are eligible to receive CDBG funding as entitlement cities because their populations exceed 50,000 persons. However, both cities have chosen to continue with the cooperation agreement to assure that Marin meets the population standard for urban counties and continue to receive CDBG funding.

The total CDBG allocation for Marin County has been about \$1.4 Million dollars annually and HOME is about \$700,000. Staff is anticipating the 2020-21 allocation will be similar to 2019-20. Staff will make their funding recommendations based on the 2019-20 allocation.

Marin County Allocation Formula:

The program is administered by staff in the Marin County Community Development Agency. Federal regulations limit the amount of administrative costs to 20% of the available grant funds. In addition, public services are limited to 15% of available grant funds. 40% of funds are allocated to housing and the remaining 25% of funding is available for community infrastructure/capital improvement projects and/or housing.

HOME funds are used exclusively for affordable housing serving low and very low-income.

The County is divided into three (3) planning areas: Novato, San Rafael, and County Other. Each planning area receives a portion of the overall allocation based on an analysis of 2010 Census Data looking at population,

² Staff reserve the right to open the application in 2021-22, if deemed necessary.

the extent of poverty, and the extent of housing overcrowding, with the provision that the extent of poverty be counted twice. For fiscal year 2020-21, the Novato planning area will receive 23.68% of funds, the San Rafael planning area will receive 39.42% of funds, and the County Other planning area will receive 36.9% of funds.

Selection Process:

The Novato City Council and San Rafael City Council hold public hearings on all applications for their respective planning areas and make a funding recommendation to the Board of Supervisors.

The Countywide Priority Setting Committee makes funding recommendations for the County Other planning area and HOME Program funding to the Board of Supervisors.

Requirements for Grant Disbursement:

All recipients will be required to enter into a contract with the County of Marin. This contract will include:

- Scope of service and use of funds.
- Expected outcomes.
- Compliance with certain administrative requirements and accounting records.
- Agreement to affirmatively further fair housing and conduct affirmative marketing.
- Non-discrimination.

All projects will require Federal **environmental review** clearance (NEPA). This is required even for projects that are not subject to CEQA. The Housing and Federal Grants Division is responsible to conduct the environmental review. Awardees should note that project funds may not be spent until the environmental review has been completed.

All community infrastructure/capital projects and some housing projects will be subject to the Federal Davis-Bacon Act regarding prevailing wages for construction workers. Davis Bacon often has standards that differ from California prevailing wage standards.

CDBG will place a lien on all community infrastructure/capital and housing improvement projects. This lien must be repaid if the property is ever sold. The lien amount is not fixed and will be calculated as the amount of CDBG funding to the current value. The lien will increase as the value of the property rises. This lien has no time limit. The lien can be assumed by another nonprofit.

HOME will establish regulatory agreements dictating the affordability of the property and/or HOME units.

Commonly Used Terms

Affirmatively Furthering Fair Housing: Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. Public service projects can affirmatively further fair housing by providing access to opportunities and by transforming racially and ethnically concentrated areas of poverty into areas of opportunity.

Affirmative Marketing: Through an affirmative marketing plan, a housing and service provider indicates what special efforts they will make to reach out to potential tenants or applicants who might not normally seek housing or services in their project and identify those least likely to apply and market to them.

Community Housing Development Organization (CHDO), is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves. To qualify for designation as a CHDO, the organization must meet certain requirements pertaining to their legal status, organizational structure, and capacity and experience. At least 15% of HOME funds must be allocated to CHDOs. A minimum requirement to be a CHDO is that at least one-third of the board membership are either low-income, residents of low-income neighborhoods, or are elected as representatives of low-income neighborhood organizations.

Community Development Block Grant (CDBG): funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development.

Demographics: HUD changed the data collection requirements regarding race/ethnicity categories during program year 2002-2003. These changes reflect Office of Management and Budget 1997 standards establishing that “Hispanic” is not a race category, but an ethnic category that cuts across all races. Those who are White, Black, Asian, Pacific Islander, American Indian, or a multi-race may also be counted as being of Hispanic ethnicity. As such, when asking the individual/household to select a race category, the individual/household must also state whether they are of Hispanic ethnicity. For example, an individual/household of Mexican descent would likely state their race as either American Indian or White, and would also fall under the category of “also Hispanic.”

Federal Grants Division: Staffed by the Marin County Community Development Agency, Federal Grants provides Marin communities with resources to address a wide range of unique community development needs. Federal funds are awarded to non-profits which provide community development activities, anti-poverty programs and affordable housing for low and moderate households throughout Marin County. Oversight is provided by the Priority Setting Committee, made up of appointed community members as well as elected officials from the County, cities and towns.

HOME Investment Partnerships Program (HOME): funds a wide range of activities including building, buying, and/or rehabilitating affordable housing for low-income people. HOME projects must match every dollar of HOME funds used with 25 cents from nonfederal sources, which may include donated materials or labor, the value of donated property, proceeds from bond financing, and other resources.

HUD: US Department of Housing and Urban Development

Protected classes: Under federal anti-discrimination law, a protected class is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. The following characteristics are protected by the Federal Fair Housing Act: race, color, religion, national origin, sex, disability, and familial status (This last term refers to the presence of at least one child under 18 years old, and also protects prospects and tenants who are pregnant or in the process of adopting a child).

Public Services: CDBG funds can be used for activities that benefit low- and moderate-income people, such as child care, health care, job training, recreation programs, education programs, public safety services, fair housing activities, services for senior citizens, services for homeless persons, drug abuse counseling and treatment, energy conservation counseling and testing, and homebuyer down payment assistance. To be eligible for funding public services must be either a new service; or provide a quantifiable increase in the level

of a service. No more than 15% of CDBG funds can be used for public services.

Rehabilitation: CDBG funds may be used to finance the costs of rehabilitation as shown below.

Residential—Residential property, whether privately or publicly owned. This includes manufactured housing when such housing constitutes part of the community’s housing stock.

Commercial/industrial—Commercial or industrial property, but where such property is owned by a for-profit, rehabilitation under this category is limited to exterior improvements of the building and the correction of code violations.

Other—Nonprofit-owned, nonresidential buildings and improvements that are not considered to be public facilities or improvements under §570.201(c) of the CDBG program regulations.

Construction of Housing: Under this category, CDBG funds may be used in certain specified circumstances to finance the construction of new permanent residential structures. Eligible uses include acquisition of sites, clearance of toxic contaminants of property to be used for the new construction of housing, site improvements to publicly-owned land to enable the property to be used for the new construction of housing, provided the improvements are undertaken while the property is still in public ownership and the cost of disposing of real property, acquired with CDBG funds, which will be used for new construction of housing.

Davis-Bacon: The Davis–Bacon Act of 1931 is a United States federal law that establishes the requirement for paying the local prevailing wages on public works projects for laborers and mechanics.

NEPA: The National Environmental Policy Act (NEPA) is a United States environmental law that promotes the enhancement of the environment and established the President's Council on Environmental Quality (CEQ). Staff must complete environmental review for all CDBG funded projects.

Income Limits - 2019 HUD INCOME LIMITS

Household Size	1	2	3	4	5	6	7	8
Extremely Low (0-30%)	\$33,850	\$38,700	\$43,550	\$48,350	\$52,250	\$56,111	\$60,000	\$63,850
Very Low-Income (30+-50%)	\$56,450	\$64,500	\$72,550	\$80,600	\$87,050	\$93,500	\$99,950	\$106,400
Low-Income (50+-80%)	\$90,450	\$103,350	\$116,250	\$129,150	\$139,500	\$149,850	\$160,150	\$170,500
Moderate-Income (80+-120%)	\$114,900	\$131,350	\$147,750	\$164,150	\$177,300	\$190,450	\$203,550	\$216,700

SOURCE: U.S. Department of Housing and Urban Development




Agenda Item No: 5.b
Meeting Date: March 16, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Human Resources

Prepared by: Shibani Nag,
Director of Employee Experience
and Culture

City Manager Approval: 

TOPIC: BARGAINING UNIT SIDE LETTER EXTENDING CURRENT MEMORANDUM OF UNDERSTANDING (MOU) WITH SEIU LOCAL 1021

SUBJECT: RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN RAFAEL AND SEIU LOCAL 1021

RECOMMENDATION:

Adopt Resolution approving the Side Letter Agreement between the City of San Rafael and SEIU Local 1021.

BACKGROUND / ANALYSIS:

In late 2018, the City of San Rafael entered into a [Memorandum of Understanding \(MOU\) with the SEIU for a two-year term from July 1, 2018 through June 30, 2020](#). The City and SEIU have reached a tentative agreement to extend the current MOU by one year, through June 30, 2021 by use of a side letter agreement (Exhibit to Attachment 1). The side letter agreement also makes changes to certain terms of the MOU, as described below. Attachment 1 is a resolution approving the recommended side letter agreement.

Salary Increases: It is recommended that job classes represented by the bargaining unit receive a 2.0% base wage increase in the first pay period including July 1, 2020 and a 1% base wage increase in the first pay period including January 1, 2021. These increases are equivalent to a 2.5% increase over the next fiscal year. The side letter would amend Section 3.1.2 of the MOU, entitled "General Wage Increase," to make this change.

Retiree Health Insurance: The City's maximum contribution towards retiree health for employees hired on or after January 1, 2010 is the PEMHCA minimum which is determined by CalPERS on an annual basis. Employees are eligible to participate in a retiree health care trust to enable them to prefund retiree health premiums. This trust is funded by an annual conversion of 50 hours of sick time each July 1st provided an employee has a minimum remaining balance after the conversion. To address employees' concerns that the remaining balance is insufficient in the event of an extended illness, the remaining

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

balance threshold will be increased from 75 hours to 125 hours. The side letter would amend Section 4.4.2 of the MOU, entitled "Retirees Health Insurance," to make this change.

Emergency/Smoke Leave: The side letter would add new Section 5.4.10 to the MOU, entitled "Emergency/Smoke Leave". This new language is added to address changes to work assignment/locations in the event of an emergency or other circumstance that results in the closure of City facilities.

FISCAL IMPACT:

The current total annual salary and benefit cost to the City for the 122.80 full-time equivalent (FTE) positions of SEIU is \$15,054,021. The total additional one-year cost is \$328,634.

The cost associated with this MOU extension is in line with the City's current budget projections for next fiscal year. Upon approval, the SEIU salary schedule will be updated accordingly and will be presented for informational purposes along with the FY 20-21 budget.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt the resolution approving the Side Letter.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTIONS:

1. Adopt resolution to approve the Side Letter with SEIU Local 1021.

ATTACHMENTS:

1. Resolution (SEIU) with attached Side Letter.

RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN RAFAEL AND SEIU LOCAL 1021

WHEREAS, on July 2, 2018 the City of San Rafael entered into a Memorandum of Understanding with SEIU Local 1021 for a two-year term from July 1, 2018 to June 30, 2020 (the “MOU”); and

WHEREAS the City and SEIU have reached a tentative agreement to extend the MOU by one year, through June 30, 2021 as set forth in the attached “Side Letter Agreement between SEIU Local 1021 and the City of San Rafael”; and

WHEREAS, under the tentative agreement, job classes represented by SEIU will receive a 2.0% base wage increase in the first pay period including July 1, 2020 and a 1% base wage increase in the first pay period including January 1, 2021; and

WHEREAS, these increases are equivalent to a 2.5% increase over the next fiscal year; and

WHEREAS, the proposed increase in compensation is in line with the City’s current budget projections; and

WHEREAS, the side letter agreement also amends Section 4.4.2 of the MOU regarding Retiree Health Insurance to modify the terms of funding of an employee’s retiree health care trust; and

WHEREAS, the side letter agreement also adds new Section 5.4.10 to the MOU to address changes to work assignment/locations in emergency situations;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael hereby approves the attached “Side Letter Agreement between SEIU Local 1021 and the City of San Rafael” extending the MOU to June 30, 2021.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 16th of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

**SIDE LETTER AGREEMENT
BETWEEN SEIU LOCAL 1021
AND
THE CITY OF SAN RAFAEL**

The City of San Rafael (hereinafter referred to as "City") and SEIU Local 1021 (hereinafter referred to as the "Local 1021") entered into a Memorandum of Understanding ("MOU") with a term beginning on July 1, 2018 and terminating on June 30, 2020. The City and the Association are collectively referred to herein as the "Parties." The Parties now wish to extend this MOU one year and provide a wage increase.

Effective ^{368 Feb 25, 2020} Feb 25, 2020, the Parties mutually agree to extend the MOU one year to end on June 30, 2021 and to provide bargaining unit members a 2% salary increase in the first pay period after July 1, 2020 and a 1% equity adjustment in the first pay period after January 1, 2021. The two step increases over the final year of this extended MOU is equivalent to 2.5% increase and is consistent with the Bay Area December 2019 CPI index.

The specific provisions contained in this Agreement are intended to supersede any previous agreements, whether oral or written, regarding the matters contained in this Agreement. Except as provided here, all wages, hours, and other terms and conditions of employment presently Association in the MOU remain in full force and effect.

The Parties have satisfied their obligations to meet and confer in good faith in accordance with the Meyers-Milias-Brown Act ("MMBA") concerning the terms and conditions of this Agreement and its implementation.

Thus, the Parties mutually agree to make the following changes to the MOU to read as follows:

Paragraph 3 of the MOU

This Memorandum of Understanding shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned for salary and employee benefit adjustment for the period commencing July 1, 2018 and ending June 30, 20201. **When ratified by the Local 1021 Bargaining Unit membership and approved by City Council, this Memorandum of Understanding shall be binding upon the SEIU Local 1021, the employees it represents, and the City of San Rafael.**

This Memorandum of Understanding shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing July 1, 2018 and ending June 30, 2020.

1.1.2 Term of MOU

This Agreement will be in effect from July 1, 2018 through June 30, 20201.

3.1.2 General Wage Increase

Effective the first full pay period including in July 2018 or upon approval of the City Council, whichever is latest, salary ranges for classifications in this unit shall be increased by 2%.

Effective the first full pay period in July 2019, salary ranges for classifications in this unit shall be increased by 2%.

Effective the first pay period after July 1, 2020, salary ranges for classifications in this unit shall be increased by 2.0%.

Effective the first pay period after January 1, 2021, salary ranges for classifications in this unit shall be increased by 1.0%.

Salary rates for all bargaining unit positions are shown in the salary table attached as Exhibit "A".

4.2.2 Retirees Health Insurance

Employees represented by SEIU who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

a. Employees hired on or before January 1, 2010

The City shall make a monthly retiree health insurance contribution on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this Section. The City's total monthly contribution, which includes the PEMHCA minimum contribution, shall not exceed \$752 per month. The City's retiree health contribution shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.

b. Employees hired on or after January 1, 2010, and who meet the eligibility requirements for retiree health insurance, are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 4.2.5b, shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner, or dependents upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS. The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of ~~75~~ **125** hours of sick leave after the conversion.

5.4.10 Emergency/Smoke Leave

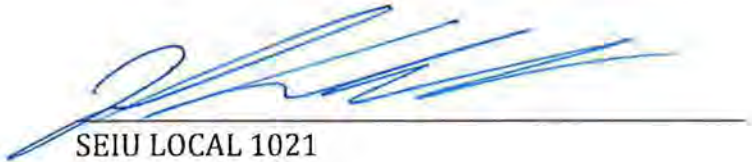
In the event that an emergency is declared that impacts City facilities or operations and results in the closure of any facilities, employees regularly assigned to work in a closed worksite may be required to report to a worksite other than their regular worksite to assist in emergency duties or to a non-impacted worksite for regular duties at the discretion of the City.

If employees are not assigned to a non-impacted worksite or assigned to assist in emergency duties, they shall be granted leave up to 10 days in any calendar and compensated for their regularly scheduled work day with no adverse effect to the employee.

This provision applies to Federal, State, County, or City declared emergencies or to other non-declared circumstances that result in the closure of City facilities.

CITY OF SAN RAFAEL:

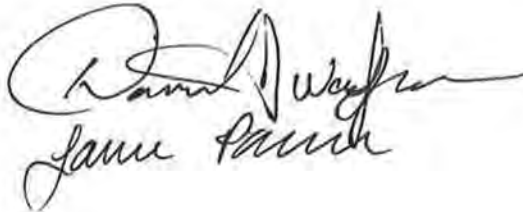
Date: 2/25/2020


SEIU LOCAL 1021

Date: 2/25/2020


CITY OF SAN RAFAEL

SEIU Bargaining Team



James Smith



Agenda Item No: 6.a
Meeting Date: March 23, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

Prepared by: Paul A. Jensen, AICP [SK]
Community Development Director

City Manager Approval: 

TOPIC: 999 3RD STREET - BIOMARIN R&D BUILDINGS / WHISTLESTOP SENIOR CENTER / EDEN SENIOR HOUSING

SUBJECT: ENVIRONMENTAL AND PROJECT APPROVALS FOR CONSTRUCTION OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS ON A 3.05-ACRE VACANT PARCEL LOCATED AT 999 3rd ST., AND A 67-UNIT, 70-FOOT TALL, SIX-STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 15,000 SQ. FT. PORTION OF THE NORTHWESTERN CORNER OF THE PARCEL (APN's: 011-265-01, 013-012-38, -39 and 013-021-50, -51, -52 -53, -54, -55)

RECOMMENDATION:

It is recommended that the City Council take the following actions in order:

- a. Adopt Resolution certifying the Final EIR (Attachment 1);
- b. Adopt a Resolution adopting CEQA Findings of Fact and Statement of Overriding Considerations, and approving an Exception to Level of Service Standards and a Mitigation Monitoring and Reporting Program (MMRP) (Attachment 2)
- c. Adopt Resolution approving General Plan Amendments to establish text and map amendments to: 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd St. site, and 2) amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site (GPA18-001) (Attachment 3)
- d. Introduce and pass to print an Ordinance adopting a Zoning Text Amendment to establish new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria (ZO18-003) (Attachment 4)
- e. Introduce and pass to print an Ordinance adopting a Planned Development (PD) Rezoning to incorporate the BioMarin portion of the 999 3rd St. property into existing SRCC PD District and update the PD with land use regulations and development standards. (ZC18-002) (Attachment 5)
- f. Introduce and pass to print an Ordinance approving a Development Agreement for the BioMarin portion of the site to vest the entitlements for a 10-year period, freeze impact fees at current rates and modify terms of the prior Development Agreement. (DA19-001) (Attachment 6)

_____ **FOR CITY CLERK ONLY** _____

Council Meeting: _____

Disposition: _____

- g. Adopt Resolution conditionally approving a Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) for the 999 3rd St. BioMarin/Whistlestop/Eden Housing Project (Attachment 7)
- h. Adopt Resolution Authorizing the Mayor and City Clerk to sign the Development Agreement (Attachment 8).

EXECUTIVE SUMMARY:

The project proposes to: a) amend the General Plan and expand Planned Development (PD) Districts b) permit development of two 72-foot tall, four-story Research and Development buildings for BioMarin, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel. In addition, BioMarin proposes to maintain the rights to build the previously approved 72,396 sq. ft office/research and development building on a portion of the surface parking lot parcel at 755 Lindaro St. and a six (6) story expansion to the existing Lincoln Ave. garage. The applicant has requested a PD Rezoning and Master Use Permit Amendment to allow the BioMarin portion of the project at 999 3rd St. to be incorporated into the existing San Rafael Corporate Center (SRCC) campus.

The project's potential environmental impacts have been assessed. Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, a Final Environmental Impact Report (FEIR) has been prepared. The FEIR concludes that most of the potential impacts would be less than significant, but there are four significant, unavoidable impacts to land use and transportation. Therefore, approval of the project requires the City to adopt a Statement of Overriding Considerations to find and support that the public benefits offered by the project outweigh the unavoidable traffic impacts of the project.

As discussed below, the Planning Commission and staff conclude that the project, as proposed and as conditioned, is consistent with the San Rafael General Plan 2020 and all applicable zoning development standards, as amended, and complies with all applicable review criteria and guidelines. The project would, generally, further long-term goals of the City by promoting the continued employment of over 550 local workers, redevelopment of an infill property, and featuring a modern, centralized, fully sustainable, office facility in a transit-oriented location with nearby freeway access. In addition, the BioMarin component of the project facilitates the relocation of the Whistlestop Senior Center and construction of 67 affordable senior housing units. In considering the project, staff finds that the project and the various additional public benefits outweigh its impacts. Therefore, draft Resolutions and Ordinances have been prepared outlining findings that support the approval of this project.

BACKGROUND:

A complete and detailed **Background** discussion can be found in the [January 28, 2020 Planning Commission Staff Report](#) (pages 3-4).

Site Description/Setting:

The project site is comprised of a 133,099 sq. ft. parcel. The project site has four frontages: Third St. on the north and Second St. to the south, Lindaro St. on the east, and Brooks St. to the west. It is a relatively flat (<1% average cross-slope) and located within the Downtown Parking District. It is currently undeveloped, as two, multi-story office buildings (PG&E) were recently demolished. The majority of the site previously underwent a soils remediation project by PG&E, prior to the sale of the property to BioMarin. BioMarin has recently completed a subsequent soil remediation project on the portion of the site under the former buildings to complete the remediation of the remaining project area. The property is currently a vacant paved parking lot.

History:

BioMarin, a global biotechnology company, was founded in Marin County in 1997. In 2013, BioMarin moved its headquarters to the SRCC, a campus of over 400,000 sq. ft. on approximately 15.5 acres. In 2015, BioMarin completed construction of its first new research laboratory building at 791 Lincoln Avenue.

In 2015, BioMarin received entitlements to expand the campus to include construction of a 72,396 sq. ft. laboratory/office building on a portion of 755 Lindero Street and construct an extension of the 788 Lincoln Avenue parking structure. This building, and parking structure addition, have not yet been constructed.

In 2015, BioMarin also purchased the approximately three-acre 999 3rd St. property in downtown San Rafael from PG&E. This site, located adjacent to SRCC, was once used by the historical Manufactured Gas Plant (MGP) for support activities and is currently vacant and awaiting completion of environmental remediation. Soil and groundwater onsite conditions containing polynuclear aromatic hydrocarbons (PNAs) and volatile organic compounds (VOCs) have been remediated in accordance with the California Department of Toxic Substances Control and continue to be monitored. The remediation process, when completed, will allow for residential development as proposed.

Founded in 1954, Whistlestop's provides a comprehensive hub of human needs services for older adults and individuals with disabilities in Marin County. These services include special needs transportation, nutrition, preventive healthcare, job training, classes and activities, multicultural outreach and assistance, and a comprehensive information and referral help desk. Whistlestop is currently located at 930 Tamalpais Ave. EDEN Housing is a non-profit organization founded in 1968 by a group of community activists with the specific intent of creating and preserving affordable housing for low-income individuals and families. Since then, Eden Housing's mission has grown to include community revitalization through an array of affordable housing developments and management activities, as well as providing supportive services to help residents thrive.

Together, Whistlestop and Eden Housing seek to build a new Healthy Aging Center coupled with affordable housing for seniors. In 2015, Whistlestop and EDEN Housing applied to redevelop Whistlestop's current building at 930 Tamalpais Ave. by demolishing the current building and developing a new six story structure with a senior center and 50 senior housing units. That project faced opposition from certain members of the community due to the loss of the Whistlestop building, which some believed was historical. BioMarin and Whistlestop/EDEN Housing then entered into a private agreement whereby BioMarin would accommodate the Whistlestop/EDEN housing project on a portion of their recently acquired 999 3rd St. site and this current project was then commenced.

Project Description:

The applicant, BioMarin, intends to develop the parcel to increase laboratory and research and development (R&D) space and has partnered with Whistlestop to allow the relocation and development of a new Senior Center and senior housing on a portion of the site (with EDEN Housing). A complete project description is included in the [January 28, 2020 Planning Commission Staff Report](#) (pages 4-11). The proposed buildings would satisfy the R&D and lab functionality for BioMarin in conjunction with the existing SRCC campus to the south of the project site. The primary components of the project are as follows:

- Expansion of the existing PD zoning designation that currently applies to SRCC to encompass the BioMarin portion of the 999 3rd St. property. Within the expanded PD, BioMarin is requesting

a General Plan amendment to allow for a new Floor Area Ratio (FAR)/development intensity to govern the entire SRCC as one project site and a height bonus to allow for the new lab buildings. In addition, the PD would maintain the allowance for the previously approved, but unbuilt, 72,396 sq. ft. office building on a portion of the Lindaro St. parking lot (755 Lindaro St.) and a six-story expansion to the southern end of the Lincoln Ave. garage (788 Lincoln Ave).

- 15,000 sq. ft. of the 999 3rd Street property at the northwest corner of the property will be subdivided and transferred to Whistlestop/EDEN Housing for development of a senior center and senior affordable housing in a six-story, 70-ft tall building which includes a Healthy Aging Campus on the first and second floors (approx. 18,000 sq. ft) and 67 affordable senior housing units on the third through sixth floors.
- The remaining 118,100 sq. ft. of the 999 3rd St. site will be developed as an extension of the BioMarin campus that is currently located at the SRCC. BioMarin proposes to develop a total of approximately 207,000 sq. ft. of laboratory/R&D and office space (split about equally between the two uses) in two, 72-ft tall, four-story buildings. The ground floor will also host amenities to support the BioMarin campus, which may include lobbies, an auditorium, conference rooms, a small cafe, and dining space. A useable roof top deck (above the ground floor between the two buildings) is proposed for employee use as noted in the concept drawing package.

Requested Entitlements: The applications that are required for the proposed project include:

General Plan Amendment is requested to: 1) modify Exhibit 6 FAR Map to a new blended rate of 0.90 for both the SRCC site and the BioMarin portion of the 999 3rd St. site; and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for the BioMarin portion of the site. The proposed amendments to the two sections of the General Plan are included as Exhibits A and B of Attachment 3 and in the [1/28/20 Planning Commission Staff Report](#) (pages 12-14).

- Zoning Text Amendment to modify the height bonus provisions in San Rafael Municipal Code (SRMC) Section 14.16.190(A) to add a new subsection 4), which adds a new 20 ft. height bonus allowance for this site. The new height bonus would read as follows:
 - 4) On the 999 3rd Street Property, a twenty-foot (20') height bonus for any of the following:
 - a. Affordable housing (minimum 60 units)
 - b. Privately owned public plaza (5,000 sq. ft. or more in size)
 - c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
 - d. Pedestrian crossing safety improvements at adjacent intersections
 - e. Donation of funds for development of bike lanes;

The proposed PD Ordinance is included as Exhibit A of Attachment 4.

- Planned Development Rezoning is requested to rezone the BioMarin portion of the 999 3rd St. campus from the current zoning of Second/Third St. Mixed Use East (2/3MUE) to a PD, and to consolidate and update the existing San Rafael Corporate Center PD District (currently PD 1936) such that the 118,099 sq. ft. of the 999 3rd St. property would be included, including specific parking standards for the entire campus, development standards and land use allowances. The proposed PD Ordinance is included as Exhibit A of Attachment 5.

- Development Agreement is requested by BioMarin to vest the approvals for their office/lab portion of the project for an extended period of time (10 years) and freeze the development impact fees at current levels in exchange for provision of certain public benefits.
- Environmental and Design Review Permit is required for both components of the project, for the design, site improvements and landscaping for the new R&D buildings for BioMarin and the Whistlestop senior center and residential units;
- Use Permit is requested to allow: 1) residential uses in the 2/3MUE zoning district for the Whistlestop component of the project; and 2) update the Master Use Permit for the San Rafael Corporate Center Campus, to include the BioMarin portion of 999 3rd St. and update it to reflect the current proposal.
- Small Subdivision is requested to subdivide 15,000 sq. ft of the 999 3rd St. site from the greater 133,099 sq. ft lot, to create a separate development parcel for the Whistlestop component of the project.
- Sign Program amendment to modify the existing Sign Program for the San Rafael Corporate Center campus to add the new signs associated with the BioMarin buildings.

Referenced application materials and plans can be viewed at: https://www.cityofsanrafael.org/999-3rd. The project is subject to CEQA. See Analysis section for a summary of the CEQA review and EIR prepared for this project.

ANALYSIS:

A detailed analysis of the project is provided in the [January 28, 2020 Planning Commission Staff Report](#) (pages 11-21). A summary of this analysis is provided as follows:

San Rafael General Plan 2020 Consistency:

The General Plan land use designation for the project site is Second/Third Street Mixed Use (2/3 MU). The 2/3 MU designation allows office and office-support service uses, and residential as part of mixed-use development. The proposed senior residential use, with the senior center as an office-support service, would therefore be consistent with Land Use Policy LU-23 (Land Use Map and Categories). Recent BioMarin projects at the SRCC classified laboratory uses as research and development and included it as part of the Master Use Permit for the entire SRCC campus. Laboratory (R&D), office and ancillary retail are allowed in the 2/3 MU land use designation. However, to accommodate the proposed Floor Area Ratio (FAR) and height proposed for the BioMarin component of the project, amendments to the General Plan Height Bonus table (*General Plan Land Use Element – Exhibit 10*) and FAR map (*General Plan Land Use Element Exhibit - 6*) are requested.

In viewing the request, the Planning Commission found and recommended:

1. The addition of a new height bonus up to 20 ft. for this site in Exhibit 10 is appropriate, based on the provision of certain proposed community benefits, including facilitation of affordable housing, community facility, donation of funds towards pedestrian and bicycle improvements, and a privately-owned public plaza.
2. The amendment to Exhibit 6 (FAR Map) to create a blended rate of 0.90 FAR on the 999 3rd St. site and the SRCC campus is appropriate. The 999 3rd St. site would be reduced from 1.5 FAR currently allowed to 0.90 FAR, while the SRCC campus would be increased from the 0.75 FAR currently allowed to 0.90 FAR. The net change would result in approximately 30.678 sq. ft. of

additional floor area allowed with the blended rate than would be permitted under the current FAR standards. This amount also accounts for the retention of the 72,396 sq. ft. previously approved office building at 755 Lindaro St.

In addition, as analyzed and determined in the Project EIR, the proposed project would conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*) because of the significant and unavoidable traffic impacts to the local circulation network that would result from the proposed project. This conflict results in a significant, unavoidable impact from a CEQA standpoint, and requires the City Council to make a finding of Overriding Consideration if it chooses to approve the project. Similar findings are required by San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which permit the City to approve a project that exceeds the LOS standards if the City Council finds that the project's benefits to the community outweigh the project's traffic impacts. The draft Resolution (Attachment 2) includes both the Statement of Overriding Consideration finding and the Level of Service Exception findings, based on the public benefits of the project outweighing the impacts.

Overall, staff finds that the project and design comply with all applicable General Plan policies. Based on staff review, the proposed project would be consistent with all applicable General Plan policies in the Land Use, Neighborhoods, Economic Vitality and Circulation Elements. A General Plan consistency table is included as [Exhibit 3](#) in the January 28, 2020 Planning Commission Staff Report.

Zoning Ordinance Consistency:

The project has been reviewed for consistency with SRMC Title 14, the San Rafael Zoning Ordinance. A complete analysis of the pertinent regulations (requirements, standards and criteria) was provided in [January 28, 2020 Planning Commission Staff Report](#) (pages 15-19). Overall, the project would be consistent with all applicable regulations of the Zoning Ordinance, including property development standards, affordable housing requirements, setbacks, parking requirements and design, and design review criteria. There are a few specific components of the project for which amendments have been requested and considered and recommended for approval.

BioMarin Component

The proposed PD rezoning would expand the PD District to cover all BioMarin owned properties and this action is consistent with the Zoning Ordinance, specifically the PD District requirements which encourage master planning on large sites over 2.5 acres. The proposed PD District would allow the future development of two additional buildings, a previously approved 72,396 sq. ft. office building at 755 Lindaro St. and an expansion to the southern end of the existing six-story Lincoln Ave. garage (788 Lincoln Ave.).

The proposed text amendment to the height bonus table in the Zoning Ordinance is required to memorialize the previously noted height bonus requested as part of the General Plan amendment. The proposed PD zoning and the height bonus amendment were considered by the Planning Commission and recommended for approval.

Whistlestop Component

The Whistlestop/EDEN Housing portion of the 999 3rd St. site (15,000 sq. ft. at northwest corner) would remain under the conventional zoning of 2/3 MUE Zoning District. As designed, the Whistlestop portion of the project would necessitate a density bonus and concessions to accommodate the project as proposed.

The entire 999 3rd St. site (133,099 sq. ft. property) is allowed up to 221 dwelling units (based on the 1 dwelling unit/600 sq. ft. land area), however since the Whistlestop portion of the project is being subdivided into a 15,000 sq. ft. lot, the maximum density for the Whistlestop portion would be 25 dwelling units (15,000 sq. ft. lot/600 sq. ft. density standard). Under the State Density Bonus Law, projects that provide a certain level of affordability are allowed a maximum of 35% density bonus. However, the City's Municipal Code (SRMC Section 14.16.030(H)(2)) allows the City the ability to grant a greater density than allowed under the State Density Bonus Law if a project includes more affordability than the minimum required. Given that the project proposes 100% affordability, the project can seek the maximum allowable density bonus, plus the additional concession and density bonus (168% or 42 units, above the 25 units allowed by zoning) and a concession for an additional four-foot height bonus under the State Density Bonus law.

The applicant provided a financial pro forma demonstrating that the additional density bonus results in "*identifiable, financially sufficient and actual cost reductions*" to the project. This concession requesting a density bonus above the maximum allowed under the State Density Bonus Law is discretionary and allows the City to review a financial pro forma. Given that this is a 100% affordable housing project, the pro forma clearly demonstrates that the additional units are needed to make the project economically viable at the affordable rates proposed for all 67 units. The City's ordinance allowing greater density bonus above the state's 35% was specifically created to allow for projects like this Whistlestop/EDEN housing project, which creates 100% affordable housing. Furthermore, the provision of additional density would result in actual cost reductions compared to a project built under the maximum density and height standards for the 2/3 MUE District.

Master Use Permit

The SRCC site currently operates under a Master Use Permit (UP14-052), which regulates the amount of development, types of allowable uses, and administrative functions for the SRCC. The Master Use Permit is a more detailed land use regulation than the PD Zoning and includes more specific details on the types and mixture of uses, parking requirements, and other use standards.

Currently, the Master Use Permit allows for a maximum development square footage with a specificity on the mixture of uses, intensity of uses, and parking requirements for the BioMarin campus. As amended, the Use Permit proposes to allow for a new maximum development allotment, uses, and parking standards including the 999 3rd St. Site.

Environmental and Design Review Permit

The proposed 999 3rd Street BioMarin/Whistlestop/Eden Housing project proposes to develop on a vacant infill site in Downtown San Rafael. The Design Review Board (DRB) reviewed and recommended approval of the design, finding that the site plan, architecture, colors, materials, landscaping and other site design features are appropriate for the site and its surroundings. The design of the new structures was also evaluated in the Draft Environmental Impact Report (DEIR) and it was determined that the proposed project would not block significant views and is consistent with mass and scale and within the maximum height and intensity established by the General Plan for this site. At the January 28, 2020 Planning Commission hearing, the Commission concurred with comments made by the DRB and found that the site plan, architecture, colors, materials, landscaping and other site design features are appropriate for the site and its surroundings. The findings approving the proposed project are included in the Resolution to adopt Master Use Permit and Design Review, Small Subdivision, and Sign Program Amendment (Attachment 7).

Parking

The 999 3rd St. project site is located within the Downtown Parking District, which requires no parking for the first 1.0 FAR. The Master Use Permit includes a request for parking modification to allow a

reduced parking for both the Whistlestop/EDEN Housing and a blended parking ratio for parking spaces per 1,000 gross sq. ft. of all office, laboratory, and amenity uses throughout the newly created SRCC campus.

BioMarin Component

The current PD and Master Use Permit for the SRCC campus includes a parking requirement of 3.3 spaces /1,000 sq. ft of building area, regardless of type of use. If using the current rate, the total parking required (for the existing SRCC development and the currently proposed project) would total 1,971 spaces for the whole campus. As part of this project, the applicant has requested to modify the parking requirement for the entire campus (both for existing and new development) from 3.3 spaces /1,000 sq. ft. of building area to:

- 3.0 spaces per 1,000 sq. ft. for general office uses
- 1.5 spaces per 1,000 sq. ft. for laboratory/research and development, and
- 1.0 space per 1,000 sq. ft. for amenity uses

The modified parking rates are based on a parking demand study of the existing campus and other biotech campuses in the Bay Area along with research of other municipalities in the Bay Area, which concluded that a “blended” parking demand for the proposed development is more appropriate. Furthermore, the new parking rates assume that many of the existing spaces for SRCC are double counted (i.e. a lab technician/scientist who has office space in one building is the same person that uses the lab portion of the second building). Parking for a campus of this size, with a worldwide footprint and Transportation Demand Management (TDM) Plan, does not result in all employees being present on campus at all times. Most of the parking for the SRCC is on the main campus, which would require users of 999 3rd Street to cross 2nd Street.

Applying the proposed parking rates to the existing buildings on the campus and the three new buildings, the total parking requirement would be 1,446 parking spaces. BioMarin is proposing a total of 1,589 parking spaces throughout the SRCC (with the majority existing in the two parking structures south of 2nd Street), resulting in a proposed “surplus” of 143 spaces based on the applicant’s calculations and parking analysis.

It is important to note that the City completed the [San Rafael Downtown Parking/Wayfinding Study](#) in July 2017. The summary of that report indicated that even during times of highest use on typical weekdays and typical Saturdays, the Downtown area, as a whole, has more than enough parking to accommodate the existing demand. Although both portions of the project provide less parking than is typically required, the results of the Wayfinding Study would support a finding that there is excess parking supply in the project area.

The proposed parking for the BioMarin component has been reviewed by the Department of Public Works and planning staff and the Planning Commission and found to be appropriate for the entire campus and use of the site as a single tenant. A condition of approval has been included in both the PD regulations and the Master Use Permit (UP18-034, Condition #10) requiring BioMarin to file a deed restriction informing potential future owners of the property that the parking reduction granted for this use is specific to the unique situation (dual laboratory and office use space and large, single tenant occupant). The restriction also puts potential future owner(s) on notice that if the property is leased to multiple tenants or a change in use increases parking demand by 5%, then additional parking or enhanced TDM measures can be required.

Whistlestop/EDEN component

The Whistlestop/EDEN housing portion of the project includes 12 total spaces, 11 spaces for the senior center, and one space for the on-site residential manager. Per SRMC Section 14.18.040, senior residential housing projects are required to provide 0.75 spaces per unit. This would result in a parking requirement of 50 spaces for the residential housing. The proposed project includes 11 ground level spaces for users of the senior center on the first and second floor. The project is located in the Downtown Parking District area which allows for a 1.0 FAR reduction of required parking. As the proposed senior center is 18,000 sq. ft., the parking requirement for the senior center would be 10 spaces (after the 1.0 FAR parking district exemption).

The proposed project is requesting a waiver under the State's Density Bonus Law to reduce the required parking for the residential component to one space for the on-site residential manager and no spaces for the residential units. Staff notes that the residents of the senior housing would not have vehicles (per their lease agreement), the project site is located across the street from a City owned parking structure and Whistlestop's primary service is operating a shuttle for seniors, which has direct access to the building at the Brooks Street entrance.

Development Agreement:

State planning law authorizes cities to enter into binding agreements with property owners allowing and vesting development rights for property. The City has established its own procedures and requirements for Development Agreements (DA), which are outlined in City Council Resolution No. 6089. Because a DA allows a legal vesting of development rights, it provides the City the opportunity to request and negotiate improvements that would not typically be allowed or required through the development review process. Approval of a DA is a legislative act, and therefore requires ultimate adoption of an Ordinance by the City Council, following review and recommendation by the Planning Commission that the DA is consistent with the General Plan. Action on a DA is also subject to CEQA.

The original development of the SRCC in the late 1990's included a DA, which established: 1) a 10-year term on the approvals, and 2) a height bonus for some of the buildings in the campus. The additional amenities obtained by the City through the DA included provision of a conference room accessible to the public, the Mahon Creek frontage, street widening, and other enhancements. Over the next 10 years, ownership of the SRCC campus changed multiple times and the DA was amended two times. Between 2004 and 2013, the approved project was built-out in phases, and the SRCC is now composed of five (5) buildings (four office and one lab) totaling 400,700 sq. ft. with two parking structures. Although because of the amendments to the original DA its term has not expired, nevertheless all obligations of that agreement have been met and certain public benefits are ongoing.

BioMarin has requested a new DA for this project. The primary purpose of the request for a new DA is to establish a longer timeframe for BioMarin to maintain their pending planning approvals. Rather than the typical two (2) years granted for planning entitlements, BioMarin is requesting a 10-year term. Although BioMarin does not have the need to build the two additional buildings at this time, submit its plans now in order to facilitate the moving of the Whistlestop/EDEN project from the previously proposed location at 930 Tamalpais Ave., and therefore has requested a 10-year term to build out their component of the project. The actual DA, including the terms and benefits, is included Exhibit A to the Attachment 8, but in summary, the DA requests the following terms and offers the following public benefits:

Terms Requested

1. 10-year timeframe to vest their approval and build their portion of the project
2. Freezing of subsequent application, processing and impact fees at current (2020) rates.

3. Removal of a prior requirement from an earlier approval that requires a new path be provided from Lincoln Ave. to 2nd St. along the back side of the Lincoln Ave. garage.
4. Relocation of the conference rooms that are available to the public after hours from their current location (750 Lindaro building) to one of the new main buildings at 999 3rd St., once built. The conference rooms would be of equal size and functionality and operate under the same rules for public use as currently.
5. Continued public use of park along Mahon Creek, behind 750 Lindaro St. and 781 Lincoln Ave., as required by the original Development Agreement for construction of San Rafael Corporate Center.

Public Benefits Offered

1. **Furtherance of City Goals and Policies** - The proposed project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The project will also support San Rafael's Objectives and Design Guidelines for the Downtown by proposing a design that provides an entry and focal point for the 2nd/3rd St. corridor, advances the "Alive After Five" policy, and allows expansion of a major downtown employer.
2. **Development of an Existing Infill Site** - The project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including the SMART station, and will not directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.
3. **Voluntary donation of development area** - BioMarin is donating the Northwestern Portion of their site to Whistlestop/EDEN housing for development of a healthy aging campus and affordable senior housing. This donation, along with a land swap to BioMarin of another property owned by Whistlestop on Lindaro St yields a net donation by BioMarin of approximately \$1.2 million as of June 2018. This transaction will be required prior to the issuance of any certificate of occupancy for development on the R&D Development Property.
4. **Voluntary monetary contribution for Shuttle Service** - BioMarin will contribute \$400,000 (\$100,000 each year for four years commencing on the first anniversary of the DA) to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.
5. **Voluntary monetary contribution for Signal Synchronization** - BioMarin will contribute \$500,000 (\$125,000 each year for four years commencing on the first anniversary of the DA) to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd St corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City.
6. **Development opportunity for Whistlestop/EDEN Housing** - The remediation performed by PG&E on this site was not performed on the entire site. In addition, the level of cleanup was not sufficient to meet the State DTSC standards for residential use of the property. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is currently conducting the second phase of the soil remediation for the 999 3rd St. property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Following this cleanup, the site will be able to accommodate residential use. BioMarin shall complete such second phase of remediation prior to commencement of construction and development activities for the 999 3rd St. project and the development of the Whistlestop component of the project.

7. **Leaseback donation for Whistlestop/EDEN Housing** - BioMarin will conduct a land exchange as part of the donation of the parcel to Whistlestop/EDEN Housing. BioMarin will donate to Whistlestop a leaseback of 930 Tamalpais Ave. for three (3) years, valued at approximately \$256,000 as of May 2019.
8. **Provide Public Meeting Space and urban open space** - BioMarin provides a portion of the 999 3rd St. project consisting of approximately 3,500 sq. ft. of retail space and approximately 6,000 sq. ft. of landscaped "front porch" plaza located at the corner of 3rd St. and Lindaro St., which shall be open to the public during daytime hours (from 9 a.m. to 5 p.m.).
9. **Contributions to Pedestrian/Bicycle safety** - BioMarin will develop a class II bike lane on Lindaro St. from 3rd St. to Anderson Dr. and install pedestrian safety enhancement by improving the sidewalks and crosswalk design at the corner of Lindaro St and 2nd St, prior to completion of the first new building at 999 3rd St.
10. **Public Parking** - Allow the City to utilize up to 70% of the portion of the 999 Third St. parcel retained by BioMarin (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of the parcel, including, without limitation, all security, sanitation and janitorial.
11. **Additional Obligations** – In order to ensure the development of the project as proposed, additional obligations are included which would be triggered. If development has not commenced on the:
 - a. First R&D building at 999 3rd St by the 6th anniversary of the DA, the developer is required to construct the class II bike lane along Lindaro and the improvement to pedestrian improvements.
 - b. Second R&D building at 999 3rd St by the 8th anniversary of the DA, the vested rights of the new building at 755 Lindaro St, will expire.

City Manager and Department directors have met and conferred with the BioMarin team to negotiate a draft DA. Furthermore, the City Council appointed a subcommittee of two members (*Mayor Phillips and Councilmember McCullough*) to further negotiate the draft terms of the DA. Lastly, the City Council reviewed the terms of the DA at a public study session on [January 6, 2020](#). Based on these negotiations, staff recommends that the DA provides an adequate offer of public benefit to offset the extended 10-year term to freeze the entitlements and the other requests that are made and recommends approval of the DA. The proposed public benefit package included in the DA, also contemplates and accounts for the public benefits required for the City to grant a Statement of Overriding Considerations to significant, unavoidable impacts identified in the DEIR, as well as the public benefits needed for the City to grant Exception to the LOS standards in the General Plan and the General Plan amendments to height bonus and FAR.

The proposed DA was considered by the Planning Commission at their January 28, 2020 meeting. In general, the Commission was supportive of the DA, with the exception of one provision related to the removal of a previously imposed requirement to install a public path behind the existing parking structure at 788 Lincoln Ave. once the expansion is built (#3 from Terms Requested in list above).

This requirement for a new public path behind the Lincoln Ave. garage was imposed on the last PD amendment in 2015, when BioMarin received approval to: 1) add a new 72,396 sq. ft. office building on a portion of the Lindaro St. surface parking lot (755 Lindaro St.); and 2) expand the existing six-story Lincoln Ave. parking garage (788 Lincoln Ave.). During that process, a condition of approval was added to create a new publicly accessible path, on the private BioMarin property, leading from Lincoln Ave. to

2nd St., along the west side of Mahon Creek. This was required to be implemented when the new office building and corresponding garage addition were under construction.

Most of the public testimony at the Planning Commission meeting was focused on this path and the request to keep the requirement. Although the Commission's role in review of a DA is to recommend on the DA's consistency with the General Plan, the Commission did consider both the public comments and the applicant's reasons for requesting the elimination of the path in their deliberation and ultimately recommended approval of the DA, with the exception of the elimination of this requirement. See discussion below in Planning Commission review section.

The applicant continues to request that the path requirement be eliminated as part of the DA and has submitted a letter outlining the reasons (Attachment 9). Staff notes that the DA presented as part of the Ordinance (Attachment 8, Exhibit A) includes the elimination of the path requirement, as proposed by the applicant. Should the elimination of the path not be found to be appropriate, the draft DA would need to be modified to remove this provision.

California Environmental Quality Act (CEQA):

A detailed discussion of the environmental review process can be found in the [January 28, 2020 Planning Commission Staff Report](#) (pages 22-43). The following is a summary of the environmental review process for this project.

Notice of Preparation (NOP)

On February 8, 2019, a Notice of Preparation (NOP) was mailed and published for a 30-day public comment period. On [March 12, 2019](#), the Commission held a scoping meeting during the 30-day comment period to hear public comments on the scope of the Draft Environmental Impact Report (DEIR). The Commission directed staff to prepare the DEIR with the following topic areas: *Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, cumulative effects and a reasonable range of alternatives.*

Notice of Completion (NOC) and Publication of DEIR:

On August 9, 2019, an NOC was distributed and the 45-day public review period of the DEIR commenced, ending at the Planning Commission hearing of [September 24, 2019](#).

Draft DEIR Summary and Conclusions

The DEIR finds environmental impacts to the following CEQA topical areas:

- Less-than-Significant Impact: Potential impacts to the following topical areas were determined to be less-than-significant and would not require further mitigation: *Aesthetics, Energy, Greenhouse Gas Emissions, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems*
- Less-than-significant, with mitigation: Potential impacts to the following topical areas were determined to be reduced to less-than-significant levels with recommended mitigation measures that incorporate best management practices consistent with the City of San Rafael General Plan and Zoning Ordinance: *Air Quality, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise and Transportation (ten impact issues)*
- Significant and Unavoidable Impacts: The DEIR concluded that the project would result in four potentially significant and unavoidable impacts to *Land Use and Planning (one impact) and Transportation (three impact issues)*.

All impacts must be mitigated to the extent feasible. Regarding the significant unavoidable impacts, the City would be required to adopt a Statement of Overriding Considerations pursuant to Section 15093(a) of the CEQA Guidelines.

Alternatives

The DEIR also evaluated four alternatives to the project, including

1. No project: (as required by CEQA).
2. Reduced Scale Alternative
3. Code-Compliant BioMarin and Off-Site Whistlestop/EDEN Housing Project Alternative
4. Code-Compliant BioMarin and Whistlestop/EDEN Housing Project Alternative

Alternative 2, the Reduced Scale Alternative, would be considered the Environmentally Superior Alternative because the smaller scale BioMarin Buildings A and B would reduce some of the local traffic congestion. The reduction in building height for Buildings A and B would also result in slightly reduced visual impacts for the project when viewed along 2nd St. and 3rd St. Also, Alternative 2 would retain the Whistlestop/EDEN Housing project on the project site, which is a preferred site compared to its existing location at 930 Tamalpais Ave. For these reasons, Alternative 2 would be the environmentally superior alternative.

After review of the EIR and the project merits, the Planning Commission rejected this alternative because if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, then the Whistlestop/EDEN Housing project would also not occur.

Final EIR (FEIR):

The Final EIR (FEIR) provides an opportunity to respond to written comments on the DEIR for the project received during the 45-day comment period (August 9, 2019 to September 23, 2019) and oral comments provided during the September 24, 2019 Planning Commission public hearing. The FEIR also provides an opportunity to make clarifications, corrections or revisions to the DEIR, as needed, based on the comments received.

The City received six (6) written comments on the DEIR and only one individual (not including the members of the Planning Commission) provided oral comments during the comment period and the Planning Commission hearing. In addition, the FEIR includes a Mitigation Monitoring and Reporting Program (MMRP) table that incorporates the Mitigation Measures recommended in the DEIR and provides implementation methods to fulfill these requirements, and a copy of the Planning Commission staff report on the DEIR. Based on the comments provided during the public review period on the DEIR, the FEIR provides responses to these comments only.

The FEIR was prepared and released on January 10, 2020 for public review. The City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On January 10, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and all responsible and trustee agencies and written responses were mailed to all responsible, trustee and other public agencies that commented on the DEIR. A notice of availability was also published in the Marin Independent Journal on January 11, 2020. A copy of the FEIR/Response was also distributed to the Commission on January 14, 2020 and available at <https://www.cityofsanrafael.org/9993rd/>

Need for Statement of Findings of Overriding Considerations:

Given that the EIR concludes that the project would result in significant, unavoidable impacts to Land Use and Transportation related to level of service impacts to the local circulation network, in order to approve the project, the Council will have to adopt a Statement of Finding of Overriding Considerations (Attachment 2).

A Statement of Findings of Overriding Considerations reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors). Adopting a Statement of Overriding Considerations would mean that the City Council finds that on balance, the benefits of the project outweigh the significant unavoidable environmental impact(s).

The proposed benefits of the project are detailed in the proposed Development Agreement (Exhibit A to Attachment 8). In addition to the public benefits discussed in more detail in the DA section above, the project sponsor contends that:

- The project by itself, is consistent with the General Plan to redevelop an infill property in downtown San Rafael,
- Sustainable development located near transit and the freeway would generally provide enough public benefit to outweigh the impacts of the decrease in level of service and barriers to mitigation implementation.
- Complying with the mitigation measures and payment of the development impact fees (\$1,600,000 estimated total costs), as required by the project, in addition to the \$1.2 million donation towards Whistlestop and \$900,000 for City transportation initiatives are also public benefits to the community.

Both the Planning Commission and staff find the benefits of the project to the community outweigh the significant unavoidable environmental impact. The project merits are compelling. A more detailed discussion on the merits of the public benefits and overriding considerations is discussed on [Planning Commission Staff Report](#) (Page 39).

DESIGN REVIEW BOARD RECOMMENDATION:

The DRB reviewed the project three times, first as conceptual on [February 6, 2018](#), and then in two formal hearings, [June 18, 2019](#) and [August 20, 2019](#). The detailed discussion of the DRB review can be found in the [January 28, 2020 report to the Planning Commission](#) (pages 21-22). On August 20, 2019, the project design was ultimately recommended for approval 5-0-1 with some minor changes: BioMarin was conditioned to widen the entry staircase to the Front Porch public space to ten feet (10') and Whistlestop was instructed to return the upper-story bay windows to the building facades and lower the window sill height in the ground-floor lobby area. These two changes are included as a condition of approval.

PLANNING COMMISSION RECOMMENDATION:

On [January 28, 2020](#), the Planning Commission conducted a public hearing on the Final EIR and project entitlements. The [January 28, 2020 Report to the Planning Commission](#) contains the detailed project description and analysis of the project. During the public hearing, 10 commenters expressed support for the project, highlighting benefits such as promotion of senior affordable housing, maintaining local marquee businesses, jobs for local workers, and development near a major highway with ease of access. A few persons who spoke in support also expressed opposition to one component of the project, the request to remove a previously imposed requirement to install a public path behind

the existing parking structure at 788 Lincoln Ave., once the expansion to the garage is built. There was one commenter who expressed concern with an increase in traffic.

The Commission then deliberated on the project and various resolutions. Their main discussion centered on BioMarin's request to remove the previously imposed requirement to build a path behind the Lincoln Ave. parking structure.

- The members of the public advocating for keeping the requirement to add a new path cited the need for multiple pedestrian connections, maintaining a previous requirement on a different phase of the BioMarin development, and continuing the existing public access through the main BioMarin campus through this area behind the Lincoln Ave. garage to 2nd St.
- BioMarin contends that there are already two public pathways leading from Lincoln Ave. to 2nd St., one along the Lincoln Ave. sidewalk and the second along an existing public path on the east side of Mahon Creek, and that adding this new one would be duplicative. In addition, they cited concerns from their security staff about attracting more public activity behind the Lincoln Ave. garage in a narrow, canyon like area, with limited public visibility and safety concern for their employees parked in the garage.

The Commission concluded that that the previously imposed requirement for the path behind the Lincoln Ave. parking structure (along the west side of Mahon Creek) would be a valuable public resource and should be kept as part of the Development Agreement. In conclusion, the Commission on a 5-0-2 vote (*Commissioners Mercado and Schaefer absent*) unanimously recommended approval of the project and all seven Resolutions, with a few minor changes, including:

- Adding clarifying language in three of the Resolutions for ongoing monitoring and reporting requirements for the Transportation Demand Management (TDM) identified in Mitigation Measure TRANS-1.
- Recommending against one of the terms in the Development Agreement, elimination of the previously imposed requirement to build a new path behind the Lincoln Ave. parking structure, along the west side of Mahon Creek.

PUBLIC NOTICING AND OUTREACH:

Notice of all public hearings on the project, including this hearing, have been conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the project site (greater than the 300 ft required by the Ordinance), the appropriate neighborhood groups (Federation of San Rafael Neighborhoods and the Gerstle Park Neighborhood, Montecito Area Residents Association and Bret Harte Community Association), and all other interested parties, 15 calendar days prior to the date of all meetings and hearings. Public notice was also posted on the project site, along both the 2nd and 3rd St. frontages, 15 calendar days prior to the date of all meetings and hearings.

All public correspondence on the project received during review of the DEIR is included, and responses to comments were provided, in the Final EIR, a copy of which was distributed to the Commission in advance. Public comments regarding the proposed Project have been received at various intervals, including comments during the DEIR review, and DRB review process.

Prior to and during the January 28, 2020 Planning Commission meeting, the City received one comment letter from Sustainable San Rafael, supporting the project, but encouraging keeping the path requirement and encouraging robust TDM (Attachment 11).

Since the Planning Commission hearing, 25 new public comments have been received, all in support of the project (Attachment 12). Any public comments received after the reproduction of this report will be compiled and delivered to the Council prior to the public hearing.

FISCAL IMPACT:

This project is a private development and does not have a direct fiscal impact on the City budget. The planning review and processing of these applications is subject to 100% cost recovery fees, paid for by the applicant, including the contracts for preparation of the EIR and contract planner services.

The project would generate 394 net new peak hour vehicular trips (BioMarin component), which would be subject to the payment of a Traffic Mitigation Fee of \$1,672,924 (394 trips x \$4,246/new peak hour traffic trip) to assist in funding needed off-site transportation improvements. The 78 net new peak hour trips associated with the Whistlestop/EDEN housing component of the project would result in the mitigation fee of \$331,188 (78 trips x \$4,246 new peak hour trip), however, this component of the project is exempt from the payment of traffic mitigation fees based on City Council Resolution Nos. 11668 and 13364, which exempt affordable housing projects from payment of mitigation fees. In addition, the intersection improvements identified in the EIR would be fully funded by the applicant in addition to a monetary contribution offered by BioMarin to address traffic improvements as part of the Development Agreement and EIR override (totaling \$900,000).

The BioMarin component of the project is required to contribute its fair share toward affordable housing based on the employment generation from the project. Therefore, based on the employment densities proposed in these new buildings, the project would result in the requirement for 3.36 affordable units. The current in-lieu fee for one affordable unit is \$343,969, therefore the in-lieu fee amount that would be required is \$1,155,737.

All utility connections (sewer, water, gas/electric) will be constructed at the cost of the property owner. Further, all public improvements along the site frontages will be constructed at the cost of the property owner. Lastly, the building permit and improvement plan fees generated by this project would off-set the costs associated with the plan review and inspections of the project during construction.

The Development Agreement would also vest any future application/impact fees during the 10 year term of the DA at current rates as of 2020, which was negotiated as part of the overall package of benefits offered.

Once constructed, the project would also result in an increase to local property tax revenues, which would fund/offset costs of providing additional ongoing public services to the site occupants.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt Resolutions to certify the Final EIR and Statement of Overriding Considerations with MMRP, General Plan and Zoning amendments, Pass the PD Ordinances to print, Pass the Development Agreement Ordinance to print and adopt the Resolution authorizing the Mayor to sign it, and adopt the Resolution approving the Zoning Entitlements (Use Permit, Design Review, Small subdivision and Sign Program amendment) (*staff recommendation*).
2. Adopt a Resolution to Certify Final EIR, but do not adopt any other Resolutions or Ordinances approving the project and provide comments on any issues regarding the project for staff or the application to address.

3. Continue the public hearing and require additional information, study, or environmental analysis.
4. Refer the applications back to the Planning Commission.
5. Deny the project and direct staff to return with revision Resolutions.

ATTACHMENTS:

1. Resolution to Certify Final EIR.
2. Resolution to adopt CEQA findings of Fact and Statement of Overriding Considerations and approve Exception to Level of Service Policy and Mitigation Monitoring and Reporting Program.
3. Resolution to adopt General Plan Amendments to establish text and map amendment to 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd St site and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site.
4. Ordinance for a Zoning Text Amendment to establish new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria.
5. Ordinance to Amend Planned Development (PD1936) Zoning District for San Rafael Corporate Center to include the BioMarin portion of the 999 3rd Street property.
6. Ordinance Approving a Development Agreement for the BioMarin portion of the site to vest the entitlements for a 10-year period, freeze impact fees at current rates and modify terms of the prior Development Agreement
7. Resolution approving a Master Use Permit and Design Review, Small Subdivision, and Sign Program Amendment
8. Resolution Authorizing the Mayor and City Clerk to sign the Development Agreement.
9. Letter from BioMarin, outlining request for removal of path requirement, 3/5/20
10. City Council Public Hearing Notice
11. Public Comments Received Prior and During Planning Commission meeting, 1/28/20
12. Public Comments Received Prior to this City Council hearing (Any comments received after publication of this report will be forwarded separately)

OTHER MATERIALS

Draft EIR and Final EIR available at: <https://www.cityofsanrafael.org/999-3rd/>

Project Plans available at: <https://www.cityofsanrafael.org/999-3rd>

Planning Commission January 28, 2020 staff report available at: [Planning Commission Staff Report](#)

Attachment 1

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) (SCH #2019029046) PREPARED FOR THE BIOMARIN AND WHISTLESTOP/EDEN HOUSING PROJECT TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS AND A 67-UNIT, 70-FOOT TALL, SIX-STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 133,099 SQ. FT. PARCEL AT 999 3RD STREET AND ADJACENT SAN RAFAEL CORPORATE CENTER. (APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, on February 28, 2019, in accord with Public Resources Code Sections 5097.94, 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2 and 21084.3 to specifically the directive of Assembly Bill 52 (AB 52) and Senate Bill 18 (SB 18), the Community Development Department staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose preparing a CEQA document Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in the California Public Resources Code. The prescribed 30-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, on March 12, 2019, the Planning Commission (Commission) held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). Following this review period, on September 24, 2019, the Planning Commission held a duly-noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

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WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed; and

WHEREAS, on January 10, 2020, Notice of Availability for the FIER/Response to Comments, was mailed to interested persons and property owners and occupants within 500 feet of the property as well as other interested persons and organizations and responsible and trustee agencies and written responses to public agency comments were provided to agencies who commented on the DEIR. In addition, on January 11, 2020, Notice of Availability was published in the Marin Independent Journal; and

WHEREAS, the City intends that the FEIR, and all applicable mitigation measures therein, shall be used as the environmental documentation required by CEQA for subsequent discretionary actions required for this project; and

WHEREAS, on January 28, 2020 the Planning Commission held a duly noticed public hearing on the FEIR/Response to comments and considered the FEIR along with the project applications/ entitlements, accepting all public testimony and the written report of the Community Development Department staff. Following the public hearing on the FEIR and project merits, on a 5-0-2 vote (Commissioners Mercado and Schaefer absent), the Planning Commission adopted Resolution No. 20-01, recommending to the City Council certification of the FEIR; and

WHEREAS, on January 28, 2020, the Planning Commission in its consideration of the FEIR determined that there was additional clarity needed to Mitigation Measure (MM) TRANS-1, and as part of their motion to pass Resolution No. 20-02, revised MM TRANS-1 to confirm that the ongoing monitoring would continue, past the annual reviews and updated the text as follows:

TRANS-1: BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15% reduction is identified for three consecutive years. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant.

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WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the FEIR/Response to Comments for the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby certifies the Final EIR, based upon the following findings required by CEQA Guidelines Section 15090:

FINDINGS

1. The Final Environmental Impact Report (FEIR), which consists of the Draft Environmental Impact Report dated August 9, 2019, and the Response to Comments Document dated January 10, 2020 has been prepared in accordance with CEQA, including Public Resources Code Section 21083.3, and the provisions of the City of San Rafael Environmental Assessment Procedures Manual.
2. The FEIR has been prepared and completed in compliance with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual by following the appropriate format, content, technical analysis of the potential impact areas and project alternatives identified in the initially-authorized scope of work. Further, all prescribed public review periods and duly noticed hearings were held for the project Notice of Preparation (NOP), Notice of Completion (NOC) for public review of the DEIR and Notice of Availability following publication of the FEIR.
3. The City Council exercised its independent judgment in evaluating the FEIR and has considered the comments received during the public review period on the DEIR.
4. The FEIR reflects the independent judgment and analysis of the City of San Rafael Community Development Department, Planning Commission and City Council. The City Council has reviewed and considered all information contained in the FEIR prior to taking action on the project, and finds that the FEIR:
 - a) Appropriately analyzes and presents conclusions on the impacts of the project;
 - b) Analyzes a reasonable range of alternatives to the project that could feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any significant effect of the project;
 - c) Identifies or recommends mitigation measures to substantially lessen, eliminate or avoid the otherwise significant adverse environmental impacts of the project, and

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- d) Includes findings and recommendations supported by technical studies prepared by professionals experienced in the specific areas of study, and which are contained within the document and/or made available within the project file maintained by the City of San Rafael Community Development Department, the custodian of all project documents.
5. The information contained in the FEIR is current, correct and complete for document certification. As a result of comments submitted on the DEIR, the FEIR provided responses to comments received on the DEIR and provided clarification to those comments. No new information has been added to the DEIR and does not deprive the public of meaningful opportunity to comment upon the significant adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement. In particular, no new information was presented in the FEIR and it does not disclose or result in:
 - a) A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented;
 - b) A substantial increase in the severity of the impacts that were disclosed and analyzed in the DEIR;
 - c) Any new feasible project alternatives or mitigation measures considerably different from others previously analyzed that would clearly lessen significant environmental impacts of the project, but which the project's proponents refuse to adopt. This includes consideration of the "No Project" alternative that has been added in the FEIR assessing the status quo; and
 - d) A finding that the DEIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
 6. The FEIR presents factual, quantitative and qualitative data and studies, which find and support the conclusion that the project will result in several potentially significant impacts that necessitate mitigation. At the time the City considers action on the project's merits, it will be necessary to make complete and detailed findings pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a). For each significant effect identified in the EIR, the City will be required to make one or more of the following findings:
 - a) That changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR; that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and that such changes have been adopted by such other agency or can and should be adopted by such other agency;
 - b) That specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR; and
 - c) As the project would result in several significant, unavoidable impacts, findings of overriding consideration will be required. Such findings will require that the City weigh the benefits of the project with the environmental impacts that cannot be mitigated.
 7. The City is taking an action to certify the FEIR for the project, recognizing it as an informational document for assessment of the project. The CEQA Guidelines recognize that an environmental document is prepared for public disclosure of potential project impacts and

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that it is used as an informational document to guide decision-makers in considering project merits. Certification of the FEIR, as presented, would not result in a land use entitlement or right of development for the project site. The FEIR document must be reviewed to determine whether it adequately assesses the impacts of the project, and whether the circumstances presented in Public Resources Code section 21166, as amplified by its corresponding CEQA Guidelines Sections 15162 to 15163 are present with respect to the project to determine whether a Subsequent EIR, a Supplement to the EIR, or Addendum to the EIR need be prepared or if further environmental review under CEQA is not required. Certification of the FEIR prior to consideration of and taking action on project entitlements does not prejudice or bias review or actions on the proposed development project.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

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RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL: 1) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS OF FACT, 2) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, 3) APPROVING AN EXCEPTION TO THE CITY-ADOPTED LEVEL OF SERVICE STANDARDS SET FORTH IN SAN RAFAEL GENERAL PLAN 2020 CIRCULATION ELEMENT POLICY C-5, AND 4) APPROVING THE MITIGATION MONITORING PROGRAM (MMRP) FOR THE BIOMARIN / WHISTLESTOP / EDEN HOUSING PROJECT AT 999 3rd STREET AND ADJACENT SAN RAFAEL CORPORATE CENTER

(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street and adjacent San Rafael Corporate Center (the "Project"); and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). Following this review, on September 24, 2019, the Planning Commission held a duly noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On January 10, 2020, a Notice of Availability for the FEIR/Response to Comments

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was mailed to interested persons and property owners and occupants within 500 feet of the Project property and to all responsible, trustee and other public agencies that commented on the DEIR; A Notice of Availability was also published in the Marin Independent Journal on January 11, 2020 and February 28, 2020; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures and requirements for implementing all mitigation measures identified in the FEIR, and is provided in attached Exhibit A of this Resolution; and

WHEREAS, the FEIR concludes that all impacts identified in the FEIR have been or can be mitigated to a level of less-than-significant, with the exception of one “Land Use and Planning” impact and three “Transportation” impacts. The FEIR concludes that the project will result in the following significant, unavoidable environmental impacts:

Land Use and Planning. Implementation of the proposed project could potentially conflict with some of the applicable goals, policies, and programs of the General Plan 2020, which were adopted by the City of San Rafael for the purpose of avoiding or mitigating an environmental effect. This potential conflict is with the following General Plan policies:

LU-2, Development Timing. For health, safety and general welfare reasons, new development should only occur when adequate infrastructure is available consistent with the following findings:

- a. Project-related traffic will not cause the level of service established in the Circulation Element to be exceeded;
- b. Any circulation improvements needed to maintain the level of service standard established in the Circulation Element have been programmed and funding has been committed;
- c. Environmental review of needed circulation improvement projects has been completed;
- d. The time frame for completion of the needed circulation improvements will not cause the level of service in the Circulation Element to be exceeded, or the findings set forth in Policy C-5 have been made; and
- e. Sewer, water, and other infrastructure improvements will be available to serve new development by the time the development is constructed.

Transportation. Implementation of the proposed project would contribute potentially significant project-related impacts involving conflicts with a program, plan, ordinance, or policy addressing the circulation system listed below:

Impact TRANS-2: Project-related traffic, under Cumulative-plus-Project conditions, would contribute to continued LOS F conditions at the US 101 southbound off-ramp to Mission Avenue, increasing the volume-to-capacity (V/C) ratio of the off-ramp by 0.033 during the AM peak hour. Traffic operations and safety at the highway ramp diverge and along the offramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.

Impact TRANS-3: Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetherington Street and D Street during the AM peak

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hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (*Traffic Level of Service Standards*).

Impact TRANS-4: Under Cumulative-Plus-Project conditions, project-related traffic would worsen the service level at the 3rd Street and Tamalpais Avenue West intersection from LOS E to LOS F during the AM peak hour, with average delays increasing from 65.6 seconds to 96.7 seconds per motorist. During the PM peak hour, the intersection's service level would remain at LOS F with project-related traffic, but the project would increase average delays from 86.4 to 94.0 seconds per motorist. This impact would create conflicts with San Rafael General Plan 2020 Policy C-5 (*Traffic Level of Service Standards*).

The FEIR concludes that there is no mitigation that can be imposed or required to reduce these impacts to a less-than-significant level; and

WHEREAS, consistent with the CEQA Guidelines, the FEIR has analyzed four Alternatives. The FEIR identifies Alternative 2: "Reduced Scale project" as the Environmentally Superior Alternative, which would reduce the overall BioMarin project size and would reduce some of the overall impacts to Transportation in the Project Area. However, this Alternative would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/EDEN housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. If the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/EDEN Housing part would also not occur; and

WHEREAS, CEQA Guidelines Section 15093 requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to approve a project. If these benefits outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable" and a statement of overriding considerations may be adopted by the agency. The decision-making agency must state in writing the specific reasons to support its action based on the FEIR and/or other information in the record. The statement of overriding considerations must be supported by substantial evidence in the record; and

WHEREAS, in support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards; and

WHEREAS, on January 28, 2018, the Planning Commission held a duly noticed public hearing on the FEIR and Project merits, accepting all public testimony and the written report of the Community Development Department staff. As part of this hearing process the Planning Commission considered draft CEQA Findings of Fact and a draft Statement of Overriding Considerations contained in this resolution, and a draft Mitigation Monitoring and Reporting Program (MMRP). On a 5-0-2 vote (Commissioners Mercado and Schaefer absent), the Planning Commission adopted Resolution No. 20-02 recommending to the City Council

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adoption of the Statement of Overriding Considerations and approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission in its consideration of the FEIR and MMRP determined that there was additional clarity needed to Mitigation Measure (MM) TRANS-1, and as part of their motion to pass Resolution No. 20-02 revised MM TRANS-1 to confirm that the ongoing monitoring would continue, past the annual reviews and updated the text as follows:

TRANS-1: BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15% reduction is identified for three consecutive years. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant.

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of 1) Resolution No. 20-01 recommended to the City Council certification of the FEIR and 2) Resolution No. 20-02 recommended adoption of CEQA Findings of Fact and Statement of Overriding Considerations and approval Exception of Level of Service standards and a Mitigation Monitoring and Reporting Program; and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23 2020, the City Council held a duly noticed public hearing to review the proposed amendment to the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department;

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of San Rafael hereby: a) approves the following CEQA Findings of Fact; b) adopts the following Statement of Overriding Considerations; and c) approves the MMRP presented in Exhibit A, finding that the MMRP has been prepared in accordance with the CEQA Guidelines:

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FINDINGS OF FACT

I. California Environmental Quality Act (CEQA)

A. Final EIR

By separate Resolution, the City Council reviewed and certified the FEIR. As part of this action and as outlined in this separate resolution, the City Council reaffirms the findings made in the separate City Council Resolution that: a) supported the certification of the FEIR; b) found that the FEIR has been prepared in accordance with the CEQA Guidelines and the City of San Rafael Environmental Assessment Procedures Manual; and c) found and concluded that the FEIR adequately assesses the environmental effects of the Project and represents the independent judgment of the City.

B. Incorporated Documents/ Record of Proceedings

The following information is incorporated by reference and made part of the record supporting these findings:

- All Project plans and application materials, including supportive technical reports;
- The DEIR and Appendices (August 2019) and FEIR (January 10, 2020), and all documents relied upon, cited therein or incorporated by reference;
- The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project;
- The City of San Rafael *General Plan 2020* and *General Plan 2020* FEIR;
- Zoning Ordinance of the City of San Rafael (SRMC Title 14);
- Subdivision Ordinance of the City of San Rafael (SRMC Title 15);
- City Council Ordinance No. 1772, City Council Resolution No. 10980 and the City of San Rafael Archaeological Sensitivity map;
- BioMarin's 999 3rd Street Project Development Agreement
- All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, summaries, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project;
- Any documents expressly cited in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by caselaw and/or Public Resources Code section 21167.6, subdivision (e).

Pursuant to CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City has based its decision are located in and may be obtained from the City's Department of Community Development, Planning Division, at 1400 Fifth Street, Third Floor, San Rafael, CA 94901.

II. Findings of Fact in Support of Project Action

The FEIR, prepared in compliance with CEQA, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Project. Because the FEIR concludes that implementation of the Project would result in adverse

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impacts, the City is required by CEQA to make certain findings with respect to these impacts. (CEQA Guidelines Section 15091) These findings list and describe the following, as analyzed in the EIR: a) impacts determined to be insignificant or less-than-significant in the Notice of Preparation checklist; b) impacts found to be less than significant after individual analysis in the EIR; c) significant impacts that can be avoided or reduced with mitigation; d) significant impacts that cannot be avoided; and e) project alternatives that were developed and studied as provided in the CEQA Guidelines.

These findings are supported by substantial evidence in the entirety of the record of proceedings before the City, which is incorporated herein by this reference. Further explanation of these environmental findings and conclusions can be found, without limitation, in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

A. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT AND NOT INDIVIDUALLY ANALYZED

During the Project's Notice of Preparation (NOP) and scoping period, the City determined that a number of the Project's potential environmental effects would be insignificant, less-than-significant or would be adequately addressed through the City's environmental review process, including Agriculture Resources, Biological Resources, Mineral Resources, Population/Housing, Schools and Libraries (Public Services), and Wildfire. For these topics, in accordance with CEQA Guidelines Section 15128, no need for further environmental assessment was required for the preparation of the FEIR.

Finding: The Project's DEIR contains brief statements identifying possible impacts that were determined to be insignificant or less-than-significant, along with the reasons for those determinations. The City Council adopts those statements and concludes that the referenced environmental effects are insignificant or less than significant and no further analysis in the FEIR is required.

B. IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT AFTER INDIVIDUAL ANALYSIS.

The NOP and scoping period identified a number of potential environmental impacts to be analyzed in the DEIR. Through that analysis, impacts relating to Aesthetics, Energy, Greenhouse Gas Emissions, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems were determined to be less-than-significant and, thus, no mitigation measures are necessary or required, as noted below.

Finding: The City Council adopts these statements and concludes that the referenced environmental impacts would be less than significant for the reasons stated below and contained within the entirety of the record of proceedings.

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1) Aesthetics

a. The Project Will Not Result in Visual Character or Quality Impacts

Facts in Support of Finding: As discussed on pages 4.1-11 to 4.2-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not substantially change the character of the Project site by constructing the new 72-foot tall buildings on an existing surface parking lot. Further, visual simulations show that the Project will not obstruct views from many viewpoints, will have less-than-significant impacts on views of Mt. Tamalpais from public vantage points, and the use is consistent and compatible with surrounding uses. In addition, the Project is consistent with design guidelines in the General Plan 2020 and non-residential design guidelines. This impact will therefore be less than significant.

b. The Project Will Not Increase Light and Glare

Facts in Support of Finding: As discussed on pages 4.1-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not increase light and glare due to existing presence of commercial lighting. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. In sum, the Project's lighting will not be substantial in comparison to existing conditions and will not affect nighttime views or cause potential "spillage" of lighting that may affect nearby residents. This impact will therefore be less than significant.

c. The Project Will Not Result in Cumulative Aesthetic Impacts

Facts in Support of Finding: As discussed on page 4.1-23 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in cumulative visual impacts. The Project is subject to City of San Rafael Design Guidelines and formal Design Review to ensure high-quality and compatible design. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. The Project therefore will not make a cumulatively considerable contribution to a significant cumulative impact, and thus this impact will be less than significant.

2) Air Quality

a. Consistency with the Bay Area Clean Air Plan

Facts in Support of Finding: As discussed on DEIR page 4.2-10 to 4.2-14 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, the project would result in an overall increase in local and regional pollutant loads due to direct impacts from construction and operational emissions. However, based on the BAAQMD's CEQA Air Quality Guidelines, the project would not conflict with or obstruct implementation of the applicable air quality plan and the associated air quality impact would be less than significant. The project's estimated emissions for ROG, NOx, and exhaust PM10 and PM2.5 during construction were well below the applicable thresholds and, therefore, would have a less-than-significant impact on regional air quality. The estimated emissions for ROG, NOx, and exhaust PM10 and PM2.5 during operation of the project were below the thresholds and, therefore, would have a less-than-significant impact on regional air quality.

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b. Exposure of Sensitive Receptors to Toxic Air Contaminants and PM2.5

Facts in Support of Finding: As discussed on DEIR page 4.2-14 to 4.2-21 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, project construction would generate DPM and PM2.5 emissions primarily from the exhaust of off-road diesel construction equipment emissions from testing and maintenance of an emergency generator. The emissions of DPM and PM2.5 from diesel exhaust during project construction and operation could pose a health risk to nearby sensitive receptors. Similarly, project operations would generate DPM and PM2.5. In addition, the project has potential to create individual TAC and PM2.5 emissions during construction and operation, the potential cumulative health risks to sensitive receptors from existing and future foreseeable sources of TACs and PM2.5. The excess cancer risk, chronic HI, and annual average PM2.5 concentrations at the on-site MEIR were below the BAAQMD's cumulative thresholds. Therefore, the cumulative impact on nearby sensitive receptors from TAC and PM2.5 emissions during construction and operation of the proposed project would be less than significant.

c. Generation of Odors

Facts in Support of Finding: As discussed on DEIR page 4.2-21 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, Project construction and operation would not be expected to generate significant odors because the project would not include handling or generation of noxious materials. Therefore, project impacts related to odors would be less than significant.

d. Cumulative Operational Air Quality Impacts

Facts in Support of Finding: As discussed on Draft EIR page 4.2-22 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, since construction and operation of the proposed project would not exceed the BAAQMD's thresholds of significance for criteria pollutants (including ozone precursors), the cumulative impact on regional air quality would be less than significant. The project would also not exceed the BAAQMD threshold emissions of DPM and PM2.5 during construction and operation of the project.

3) Cultural Resources

a. Human Remains

Facts in Support of Finding: As discussed on Draft EIR page 4.3-8 and supported by evidence contained within the entirety of the record of proceedings, under CEQA the project would have less-than-significant impacts on human remains, including those interred outside formal cemeteries. As noted under "Pre-Contact Archaeological Resources and Human Remains," Native American human remains could be encountered below the engineered fill at the project site. Should human remains be unearthed during project construction, these would be treated in accordance with existing state laws, including California PRC Section 5097.98 and California Health and Safety Code Section 7050.5. With enforcement and implementation of these state laws, project impacts on human remains would be less than significant, and no mitigation measures are required.

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4) Energy

- a. **The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.**

Facts in Support of Finding: As discussed pages 4.4-4 to 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in wasteful, inefficient, or unnecessary consumption of energy. While energy consumption would increase (due to the proposed new buildings and associated vehicle traffic), the net increase in overall per capita consumption would not be considered substantial, for two reasons:

1. **Downtown Infill Location.** The project would be located on a downtown infill site already served by roads, transit, and utilities. This type of infill development tends to be more energy efficient than development on less centrally located sites, as it offers opportunities for reusing existing resources and encouraging use of public transit and other alternatives to private vehicles.
 2. **Energy Efficiency Measures.** The project includes energy efficiency measures and would likely be subject to additional applicable state and local requirements at the time of detailed project review. In addition, all project buildings would be designed to accommodate solar roof systems at some point in the future. As noted in the above analysis, the energy consumption estimates for the project are considered conservative, because it was assumed that no energy savings would result above current standards; therefore, the project's actual energy consumption might be less than the estimates, since additional energy reduction measures will likely be introduced at the state and local level over time and would be included in the project. The project would be subject to City of San Rafael policies and review procedures that would ensure that the project incorporates the latest energy conservation measures. This impact will therefore be less than significant.
- b. **The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.**

Facts in Support of Finding: As discussed page 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. The project applicants are proposing that the project be designed with a variety of energy-saving features, which are described in detail in Chapter 3, Project Description, of this DEIR. Through the local building permit process, the project would be required to abide by all State of California mandates for energy conservation. The project therefore would not conflict or obstruct a state or local plan for renewable energy or energy efficiency.

- c. **The project would not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects.**

Facts in Support of Finding: As discussed page 4.4-7 to 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings,

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the Project will not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects. The project site is already served by PG&E electricity and natural gas facilities. It is generally expected that the project would connect to existing PG&E utility lines serving the site. New gas underground service would be installed for each building, with points of connection and gas meters located immediately adjacent to each building. A new electrical power underground service would be provided, with underground feeders extended from existing vaults to the project site and ending at a new pad-mounted transformer outside each building. A utility meter would be provided at each main switchboard. A transformer would be provided to serve BioMarin Building B. An on-site generator would be provided for emergency power use (BioMarin and Whistlestop/Eden Housing, 2019). A new PG&E gas underground connection/service would be provided for the Whistlestop/Eden Housing project, and a new electrical transformer would be installed at the southwest corner of the site, next to the electrical room. A new gas meter would be located at the southwest corner of the site.

- d. The Project would not result in net increased energy demand and, combined with other past, present, and probable future projects, would not result in a significant cumulative impact.**

Facts in Support of Finding: As discussed page 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the net increased energy demand from the Project would be minimal and would not require expanded or new energy facilities as a direct result of project development. The proposed project would not result in any significant impacts on energy services. The proposed project would realize transportation-related energy savings compared to similar projects in a location at a distance from urban areas. The proposed project and other projects have been and would be required to comply with all standards of Title 24 of the California Code of Regulations. PG&E, which provides energy to the project site and vicinity, produces much of its energy from renewable sources and has plans in place to increase reliance on renewable energy sources. Because many agencies in California have adopted policies seeking increased use of renewable resources (and have established minimum standards for the provision of energy generated by renewable resources), it is expected that PG&E would continue to meet future demands for energy via a gradually increasing reliance on renewable resources, including small-scale sources such as photovoltaic panels and wind turbines, in addition to larger-scale facilities, such as wind farms. MCE also serves the San Rafael area, providing additional alternatives for renewable electricity service. The increase in demand would likely be met through the development of renewable resources that would have fewer environmental effects than the development of new conventional gas- or coal-fired power plants.

5) Geology and Soils

a. Surface Rupture

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving rupture of a known earthquake fault. Available mapping does

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not identify a fault at or near the project site that would have the potential to result in surface rupture (Miller Pacific Engineering Group, 2018). In a seismically active area such as the San Francisco Bay region, a remote possibility exists for future faulting to occur in areas where no faults previously existed. Because this is unlikely to occur, the geotechnical report for the proposed project concluded that the potential for fault surface rupture at the project site is low (Miller Pacific Engineering Group, 2018). Therefore, the potential for substantial adverse impacts to occur due to surface rupture is less than significant.

b. Landslides

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving landslides. The project site and surrounding areas are relatively flat. The site-specific geotechnical investigation report did not identify any potential slope stability or landslide hazards associated with the proposed project (Miller Pacific Engineering Group, 2018). Therefore, the potential for the proposed project to expose people or structures to substantial adverse effects involving landslides is less than significant.

c. Soil Erosion or Loss of Topsoil

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in substantial erosion or the loss of topsoil. Potential soil erosion impacts of the proposed project would be related to stormwater runoff entraining soils exposed during construction, and are analyzed in Section 4.8, Hydrology and Water Quality.

d. Cumulative Geology and Soils Impacts

Facts in Support of Finding: As discussed on pages 4.5-15 to 4.5-16 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Geologic impacts do not extend far beyond a project's boundaries because geologic and soils conditions can vary widely over a short distance and therefore potential impacts are typically confined to discrete spatial locations and do not combine to create a significant cumulative impact. There are no large landslide features or fault zones present in the vicinity of the project site. The development of the proposed project and the nearby cumulative projects would not alter the geologic or seismic hazards at any off-site location. Therefore, the potential cumulative impact related to geologic hazards would be less than significant. The proposed project and cumulative projects within San Rafael, could affect unidentified paleontological resources. However, impacts on these resources accidentally discovered during implementation of these projects would be mitigated to less-than-significant levels through the use of appropriate mitigation measures adopted as conditions of approval. Collectively, the proposed project and other projects would not result in a cumulative increase in impacts on paleontological resources as these resources would be avoided or otherwise removed, analyzed, and reported (i.e., by a qualified paleontologist). Therefore, the potential cumulative impact would be less than significant.

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6) Green House Gas Emissions

a. GHG Emissions from Project Operations

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, GHG emissions generated by the project would not have a significant impact on the environment. In 2019, the City of San Rafael adopted the CCAP 2030 in order to implement measures to reduce GHG emissions and adapt to climate change. The CCAP 2030 identifies strategies for reducing the City of San Rafael's GHG emissions 25 percent below 2005 levels by 2020, which is more stringent than the statewide 2020 target under AB 32, and 40 percent below 1990 levels by 2030, which is consistent with the statewide 2030 target under SB 32. These GHG reductions would also put the City on a trajectory to reduce GHG emissions 80 percent below 1990 levels by 2050, which is consistent with the statewide 2050 target under Executive Order S-3-05. Emissions reductions related to transportation, energy efficiency, renewable energy, and water conservation are estimated in the CCAP 2030 and show that the City would surpass the City and statewide goals for 2020 and 2030 by reducing emissions 19 percent below 1990 levels by 2020 (equivalent to 31 percent below 2005 levels) and 42 percent below 1990 levels by 2030. These GHG reductions would primarily be achieved through low-carbon transportation, energy efficiency, renewable energy, waste reduction, and water conservation. Therefore, the GHG emissions generated by the project would have a less-than-significant impact on the environment.

b. Consistency with San Rafael's CCAP 2030

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be consistent with the City of San Rafael's CCAP 2030. As discussed above, the project's GHG emissions impact is considered less than significant because the project is consistent with the CCAP 2030.

7) Hazards and Hazardous Materials

a. The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Facts in Support of Finding: As discussed on pages 4.7-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, during project construction, hazardous materials (e.g., fuel, oils, solvents, paints) would be routinely transported, stored, and used at the project site. Because the proposed project would result in soil disturbance greater than 1 acre, management of soil and hazardous materials during construction activities would be subject to the requirements of the Stormwater Construction General Permit which requires preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) that includes hazardous materials storage requirements. The routine handling and use of hazardous materials by workers would be performed in accordance with OSHA regulations, which include training requirements for workers and a requirement that hazardous materials are accompanied by manufacturer's Safety Data Sheets (SDSs). Cal/OSHA regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials. Compliance with these existing regulations

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would ensure that workers are protected from exposure to hazardous materials that may be transported, stored, or used on-site. Compliance with the existing regulations for hazardous materials discussed above would ensure that the proposed project would not result in significant impacts related to the routine transport, use, storage, or disposal of hazardous materials.

- b. During construction, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.**

Facts in Support of Finding: As discussed on pages 4.7-16 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project would not result in an accidental release of hazardous materials (e.g., oils, fuels, solvents, and paints) during project construction. The proposed project would be subject to the requirements of the Construction General Permit, which require preparation and implementation of a SWPPP and best management practices (BMPs) to reduce the risk of spills or leaks from reaching the environment, including procedures to address minor spills of hazardous materials. Measures to control spills, leakage, and dumping must be addressed through structural as well as nonstructural BMPs, as required by the Construction General Permit. Construction activities that would disturb potentially contaminated soil and groundwater at the project site would be subject to the requirements of the Covenant and SGMP, including requirements for worker health and safety, dust and odor control, stockpile management, stormwater runoff and erosion control, soil and groundwater disposal protocols, and protocols for the discovery of unanticipated conditions (e.g., subsurface features or contaminated soil not identified during previous investigations). Compliance with the requirements of the Covenant, SGMP, and the Construction General Permit would ensure that the proposed project would result in less-than-significant impacts related to the accidental release of hazardous materials during construction.

- c. The project would not result in significant impacts related to emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.**

Facts in Support of Finding: As discussed on pages 4.7-17 to 4.7-18 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project is located approximately 800 feet from Saint Raphael Elementary, a private school located at 1100 Fifth Avenue north of the project site. The project site is approximately one-quarter mile north of the James B. Davidson Middle School public school located at 280 Woodland Avenue. The proposed project would be designed, constructed, and operated in accordance with the requirements of the CBC, CFC, and IFC for the storage and handling of hazardous materials; and operation of the project would be required to comply with existing hazardous materials regulations enforced by Marin County. Compliance with the existing regulations discussed above would ensure that the proposed project would have less-than-significant impacts related to potential hazardous emissions near schools during operation of the project.

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- d. The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, although the project site is a known hazardous materials release site, the project site is not included on any of the lists of hazardous materials release sites compiled pursuant to Government Code Section 65962.5, also known as the “Cortese List” (CalEPA, 2019). Therefore, the proposed project would have no impact related to being included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.

- e. The project is not located in the vicinity of an airport and therefore would not result in airport-related safety hazards or excessive noise for people residing or working in the project area.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the nearest airport to the project site is San Rafael Airport, approximately 3 miles north of the project site. San Rafael Airport is a private use airport (AirNav, 2019) and does not have a land use plan. The nearest public airport to the project site is the Marin County Airport at Gross Field in Novato, approximately 12 miles to the north. The project site is not located within the land use plan area for the Marin County Airport at Gross Field (Marin County Planning Department, 1991). There are no airports located within 2 miles of the project site. Therefore, the proposed project would have no impacts related to aviation hazards.

- f. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, construction of the project could require temporary closure of portions of streets adjacent to the project site. Traffic control requirements imposed by the City for the permitting of temporary closure of street areas would ensure that appropriate emergency access is maintained at all times during construction activities. The proposed project would not permanently alter roadways in the vicinity of the project site. Therefore, the proposed project would have a less-than-significant impact related to impeding or interfering with emergency response or evacuation plans.

- g. The project would not expose people or structures, either directly or indirectly, to significant risk of loss, injury, or death involving wildland fires.**

Facts in Support of Finding: As discussed on pages 4.7-19 and 4.7-20 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the project site is within a highly urbanized area and is not located near heavily vegetated areas or wildlands that could be susceptible to wild fires. The project site is not located in or near a State Responsibility Area or a Very High Fire Hazard Severity Zone as mapped by the California Department of Forestry and Fire Protection (CAL FIRE, 2008). The project site is not in or near a Wildland-Urban Interface area mapped by the City of San Rafael (Wildland-

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Urban Interface areas are areas where structures are built near lands prone to wildland fire.) Therefore, the project would have a less-than-significant impact related to wildland fire hazards.

8) Hydrology and Water Quality

a. The project would not result in substantial erosion or siltation on- or off-site.

Facts in Support of Finding: As discussed on pages 4.8-12 and 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Construction activities would involve excavation and grading, which would temporarily alter drainage patterns and expose soil to potential erosion. Compliance with the Construction General Permit and City of San Rafael BMPs for construction activities would ensure that erosion of exposed soil and sedimentation of receiving waters or the combined sewer system would not occur during construction of the proposed project. During operation of the project, the site would be covered by buildings, pavement, and landscaped areas, with no ongoing soil exposure or disturbance that could result in erosion and siltation. For these reasons, the potential of project construction and operation to change drainage patterns in a manner that would result in erosion or siltation on- or off-site would be less than significant.

b. The project would not impede or redirect flood flow.

Facts in Support of Finding: As discussed on pages 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the majority of the proposed project is located within the 100-year flood hazard zone. The project site is not located in a regulatory floodway. Any proposed development or modification of the regulatory floodway is subject to the special study requirements of San Rafael Municipal Code Section 15.50.060. The flooding at the project site and vicinity is mapped as shallow flooding of 1 to 3 feet that usually consists of areas of ponding. The development of the project site would not alter this existing flooding pattern, which is controlled by the properties of San Rafael Creek. In addition, the project would be required to comply with the requirements of Section 18 of the San Rafael Municipal Code and acquire a development permit in accordance with Section 18.40.010. Therefore, after development of the buildings, the flood water surrounding the project site would continue to consist of shallow flooding with areas of ponding, and the potential of the proposed project to redirect or impede flood flows would be less than significant.

c. The project would not result in a substantial release of pollutants during inundation of the project site by flood waters.

Facts in Support of Finding: As discussed on pages 4.8-13 to 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project site is not located in an area subject to flooding due to tsunami, seiche, or dam inundation. The construction of the proposed project would be required to implement a SWPPP and to comply with City of San Rafael BMPs for construction activities, including measures for managing hazardous materials used on construction sites and for keeping the construction site maintained in a clean and orderly state, and hazardous materials storage requirements. Once constructed, the project buildings would be subject to

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inundation during the 100-year flood, as well as to inundation due to sea level rise. Urban pollutants associated with the proposed land uses include oils, fuels, and metals associated with motor vehicle traffic; fertilizers and pesticides used to maintain landscaped areas; and trash generated by new site occupants. In addition, some contamination would likely be present in the soil and groundwater on the project site even after remediation is complete. The maintenance of the site cap would prevent contaminants in the soil and groundwater on the site from coming into contact with floodwaters. Therefore, the risk of the release of pollutants from these flood hazards would be less than significant during both project construction and operation.

d. The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Facts in Support of Finding: As discussed on pages 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no significant groundwater resources are located at the project site, and there is no groundwater management plan for the area of the project site. The Basin Plan is the master policy document that establishes the water quality objectives and strategies needed to protect designated beneficial water uses in the San Francisco Bay region. The State Water Board and Regional Water Board enforce compliance with the water quality objectives of the Basin Plan through the issuance of NPDES permits. The project would comply with the Construction General Permit and Small MS4 Permit. Compliance with these permits would ensure that the proposed project would not have the potential to conflict with the Basin Plan. Therefore, this impact would be less than significant.

9) Land Use and Planning

a. The project would not divide an established community.

Facts in Support of Finding: As discussed on pages 4.9-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no land uses are currently present on the project site. The project would allow development of office, R&D, multi-family housing, and retail uses that would be generally compatible with surrounding uses in the downtown area. Thus, the project would not divide an established community, and the impact would be less than significant.

10) Noise

a. Airport Noise

Facts in Support of Finding: As discussed on pages 4.10-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not expose people residing or working in the project area to excessive airport noise levels. The nearest private airstrip to the project site is the San Rafael Airport, approximately 3 miles to the north. A heliport is located approximately 2.6 miles southeast of the project site. The project site is located outside of the 60 dBA Ldn contour line of both San Rafael Airport and the heliport (City of San Rafael, 2017). The project site is not located within the vicinity of any other private airstrip (Federal Aviation Administration, 2019). Therefore, the proposed project would not expose people in the project area to excessive noise levels from any private airstrips. The nearest public use airport to the project site is the Marin County Airport (also known as Gness Field) in

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Novato, approximately 12 miles to the north. The project site is not located in a land use plan for Marin County Airport (Marin County Planning Department, 1991). Therefore, the proposed project would not expose people at the project site to excessive noise levels from any public use airports.

b. Operational Noise Related to Increased Traffic

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Project-related traffic would not generate a substantial permanent increase in ambient noise levels in excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The proposed project would increase vehicle trip generation during operation but below the 3 dBA significance threshold for project-generated traffic noise. Consequently, the proposed project would not result in a significant increase in traffic noise along local area roadways.

c. Land Use Compatibility

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating a noise effect. According to the traffic noise level contours of the General Plan, existing noise levels range from 65 dBA Ldn to 69 dBA Ldn in the northern portion of the project site and from 68 dBA Ldn to 72 dBA Ldn in the southern portion of the project site. A typical building façade with windows closed would also reduce the interior noise levels for the BioMarin project to 40 to 47 dBA Ldn, which is consistent with the interior noise levels requirements of 50 dBA Ldn in 2016 California Building Standards Code for buildings containing non-residential uses. Therefore, impacts related to land use compatibility would be less than significant.

11) Public Services

a. The project would increase the demand for fire protection services, but not to the extent that new or physically altered fire stations would be needed.

Facts in Support of Finding: As discussed on page 4.11-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for fire protection services, including increased calls for service. This new demand would not be large enough to require new or physically altered fire protection facilities or equipment, however. The project would not require the hiring of any additional firefighters, and no new or upgraded facilities would be necessary. As such, the impact is considered less-than-significant.

b. The project would increase the demand for police services, but not to the extent that new or physically altered police stations would be needed.

Facts in Support of Finding: As discussed on page 4.11-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for police services, including increased calls for service and response to traffic-related issues. This new demand would not be large enough to require new or physically altered police facilities or equipment, however. The project would not require the hiring of any

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additional officers, and no new or upgraded police facilities would be necessary. In addition, at the time of building permit issuance, the project applicants would pay development impact fees of \$0.12 per square foot of commercial space, \$0.06 per square foot of industrial space, and \$128.50 per bedroom for residential uses. The City of San Rafael would use these funds to cover the costs of the project's impact on public facilities and services within the city, including on-going costs of police services. As such, the impact is considered less-than-significant.

c. The Project Will Not Result in Significant Cumulative Public Services Impacts

Facts in Support of Finding: As discussed on page 4.11-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project will not service demands from the project would not affect these services enough to create the need for new or expanded facilities. The project would be subject to Fire Code requirements and other standard requirements for features such as emergency access, signage, lighting, and security. Other projects in the San Rafael city limits would also be subject to these standard requirements, along with development impact fees that are used by the City to cover the cost of project impacts on public facilities and services. As such, the impact is considered less-than-significant.

12) Recreation

a. The project would not increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated or such that new or altered facilities would be needed.

Facts in Support of Finding: As discussed on page 4.12-3 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the proposed on-site recreational facilities and services are expected to be adequate to serve the needs of the on-site population. While the project could result in an increase in use of nearby parks and recreational facilities, this increase would not be large enough to result in the need for new or altered parks or cause deterioration of existing parks or recreational facilities. The project would not create any conflicts with San Rafael General Plan 2020 policies for recreational facilities. The impact would be less than significant, and no mitigation is necessary.

b. The project would include recreational facilities and would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

Facts in Support of Finding: As discussed on page 4.12-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would include on-site recreational facilities. The environmental impacts of constructing these facilities are evaluated throughout this DEIR as part of the analysis of the project as a whole. The proposed on-site recreational facilities would not have any specific adverse physical effects on the environment. The recreational needs of the project's population would be met on-site, and the project would not create a need for construction or expansion of

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other recreational facilities. As such, the impact is considered less-than-significant.

c. The Project Will Not Result in Significant Cumulative Recreation Impacts

Facts in Support of Finding: As discussed on page 4.12-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, The project, in conjunction with other past, present, and probable future projects, could result in a cumulative increase in demand for recreational facilities in the area. The cumulative increase in demand would result from the project along with existing and future development in the area, particularly residential development. As discussed in the above analysis, however, demand from the project would not result in a significant impact on recreational facilities or create the need for new or expanded facilities, because the recreational needs of residents, employees, and other project occupants would be met on-site. In addition, anticipated residential projects in San Rafael and other cities would be subject to each city's respective standard requirements for parkland dedication or in-lieu payment of fees to fund parks and recreational facilities. For these reasons, the project would not result in or contribute to any significant cumulative recreation impacts.

13) Transportation

a. The Project would not conflict with a program, plan, ordinance, or policy addressing transit facilities or bicycle facilities.

Facts in Support of Finding: As discussed on page 4.13-20 to 4.13-21 of the DEIR and supported by evidence contained within the entirety of the record of proceedings the proposed project will increase potential public transit ridership but the level of added transit ridership would not have a significant impact on the SMART, Golden Gate Transit, or Marin Transit routes serving downtown San Rafael. Therefore, project impacts on transit facilities are considered less than significant. The project will include provisions for bicycle parking and storage are included in both the BioMarin and Whistlestop/Eden Housing projects. Therefore, project impacts on bicycle facilities are considered less than significant.

14) Tribal Cultural Resources

a. The Project would not potentially cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is Geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Federated Indians of Graton Rancheria (FIGR) has requested consultation with the City to address potential impacts on tribal cultural resources. Based on a discussion between the City and the FIGR Tribal Historic Preservation Officer, Buffy McQuillen, the tribe neither provided specific information regarding the presence of tribal cultural resources at the project site nor requested specific mitigation measures be implemented. The NWIC records search did not identify Native American archaeological deposits or ancestral remains at or adjacent to the project site. The proposed project would have no impact on known tribal

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cultural resources that are listed or eligible for listing in the California Register of Historical Resources or a local register of historical resources. The City has not identified substantial evidence to indicate the presence of a tribal cultural resource.

b. The Project Will Not Result in Significant Cumulative Tribal Resource Impact.

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, based on a review of project and CEQA documentation available on the City of San Rafael website, no recent past, current, or probable future projects under review by the City include reported tribal cultural resources as defined under PRC Section 21074. When the City considers future development proposals, these proposals would undergo environmental review pursuant to CEQA and, when necessary, mitigation measures would be adopted as appropriate. Measures to mitigate or avoid impacts on tribal cultural resources would be drafted in consultation with FIGR. In most cases, this consultation would ensure that significant impacts on tribal cultural resources would be avoided or otherwise mitigated to less-than-significant levels. For these reasons, the proposed project would not result in or contribute to any significant cumulative impacts on tribal cultural resources.

15) Utilities and Services

a. The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment, or other facilities; the construction or relocation of which could cause significant environmental effects.

Facts in Support of Finding: As discussed on page 4.15-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in the construction of new off-site water facilities or expansion of existing facilities. No extension of MMWD pipelines would be necessary to serve the project. The BioMarin project would require one water meter per structure, and the Whistlestop/Eden Housing project would likely require a single meter for the building at the street with private submeters for each living unit. These water facilities would not have any specific significant environmental impacts requiring mitigation. The project applicants would pay appropriate development impact and utility connection fees toward ongoing improvements and maintenance of the water system. Water system improvements to be funded by the project applicants may include installation of a new fire hydrant at the corner of 3rd Street and Brooks Street. The San Rafael Fire Department is planning to require this new hydrant as part of an MMWD water main replacement along the portion of 3rd Street that adjoins the project site. The environmental impact would be less than significant, and no mitigation is necessary.

b. Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years.

Facts in Support of Finding: As discussed on page 4.15-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would require compliance with MMWD conservation requirements

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that would help reduce the project's water use, in compliance with San Rafael General Plan 2020 and Climate Change Action Plan policies and programs for water conservation. Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years. The project's impact on water supplies would therefore be less than significant, and no mitigation is necessary.

- c. The project would not result in a determination by the wastewater treatment provider that serves the project site that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Facts in Support of Finding: As discussed on page 4.15-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the CMSA Wastewater Treatment Plant would have adequate capacity to handle this increase (Dow, 2019). The project's impact would therefore be less than significant, and no mitigation is necessary.

- d. The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. The project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste.**

Facts in Support of Finding: As discussed on page 4.15-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be subject to the California Green Building Standards Code (CALGreen Code), which has been adopted as Chapter 12.23 of the San Rafael Municipal Code. The CALGreen Code contains requirements for waste reduction and recycling, including requirements that a minimum of 50 percent of construction waste be recycled and/or salvaged for reuse, that a construction waste management plan be prepared, and that readily accessible areas be provided to allow recycling by project occupants. The City of San Rafael would review the project to verify compliance with the CALGreen Code. The impact would therefore be less than significant, and no mitigation measure is necessary.

- e. The Project will not have Cumulative Water, Wastewater, and Solid Waste Disposal Impacts.**

Facts in Support of Finding: As discussed on page 4.15-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project's water consumption would not result in a significant impact on water supply or create the need for new or expanded water facilities. Individual projects proposed within the MMWD service area will need to calculate precise water demands and facilities needed to provide adequate long-term water supply. For these reasons, the effect of the project on water service, in combination with other past, present, and probable future projects, would be less than significant. The project would not result in or contribute to any significant cumulative water service impacts. For wastewater service, the geographic scope for assessing cumulative impacts is the service area of the San Rafael Sanitation District and the CMSA Wastewater Treatment Plant. The service demand from the project would not result in a significant impact on wastewater treatment plant capacity or create the need for new or expanded wastewater facilities. While

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sewer lateral connections would not be identified until projects are in the design stage, the existing lift station is expected to have adequate capacity to serve the additional flow. For these reasons, the effect of the project on wastewater service, in combination with other past, present, and foreseeable projects, would be less than significant. The project would not result in or contribute to any significant cumulative wastewater service impacts. For solid waste disposal service, the geographic scope for assessing cumulative impacts consists of the service area of Redwood Landfill through 2024. Comprehensive implementation of state and local waste reduction and diversion requirements and programs has and would continue to reduce the potential for exceeding existing landfill capacity. For these reasons, the project's effect on solid waste disposal service, in combination with other past, present, and probable future projects, would be less than significant. The proposed project would not result in or contribute to any significant cumulative solid waste disposal service impacts.

C. SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED WITH MITIGATION

The City Council, as authorized by Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15092, identifies the following significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures recommended in the EIR. As summarized in Chapter 2 (pages 2-5 – 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, these mitigation measures are hereby adopted and incorporated into the description of the Project and their implementation will be monitored through the MMRP.

1) Air Quality

- a. **Impact AIR-1: Fugitive dust emissions during project construction could adversely affect a substantial number of people.**

Significant Impact

As discussed on pages 4.2-21 to 4.2-22 and summarized in Chapter 2 (page 2-5) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, grading and construction activities on the Project site will create a temporary potentially-significant Air Quality impact, which can be mitigated to a less-than-significant level with the preparation, approval and implementation of a basic measures to control dust and exhaust during construction (Attachment A: Mitigation Measure **MM AIR-1**).

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Finding

The City Council finds that implementation of MM AIR-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

2) Cultural Resources

- a. **Impact CULT-1: The proposed project could cause a substantial adverse change in the significance of archaeological deposits that qualify as historical resources, as defined in CEQA Guidelines Section 15064.5. Archaeological deposits could be unearthed or otherwise displaced during project ground disturbance below fill at the project site.**

Significant Impact

As summarized in Chapter 2 (pages 2-5 – 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although construction of the Project would have no impact on known archaeological resources, there is a possibility that previously unidentified archaeological resources and subsurface deposits are present within the project area, and Project construction could potentially disturb such resources and subsurface deposits within the Project area. This potential Cultural Resources impact can be mitigated to a less-than-significant level if archaeological resources are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and provide recommendations. (Attachment A: Mitigation Measure **MM CULT-1**).

Finding

The City Council finds that implementation of MM CULT-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. **Impact CULT-2: The proposed project could cause a substantial adverse change in the significance of an archaeological resource, as defined in CEQA Guidelines Section 15064.5. Archaeological resources could be**

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unearthed or otherwise displaced during project ground disturbance below fill underlying the project site.

Significant Impact

As summarized in Chapter 2 (page 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there are no formal cemeteries or known interred human remains within the Project area and no evidence of human remains was identified within the Project area. However, the potential for their presence cannot be entirely ruled out, since construction-related excavation could expose and disturb or damage previously undiscovered human remains. This Cultural Resources impact can be mitigated to a less-than-significant level if previously unknown human remains are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and providing immediate notification to the Marin County Coroner and the notification to the NAHC if the remains are Native American. (Attachment A: Mitigation Measure **MM CULT-2**).

Finding

The City Council finds that implementation of MM CULT-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

3) Geology and Soils

- a. **Impact GEO-1: During its design life, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground failure, and unstable soils, creating the potential for a significant risk to structures and human lives.**

Significant Impact

As discussed on page 4.5-13 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground failure, and unstable soils, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level

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geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-1**).

Finding

The City Council finds that implementation of MM GEO-1 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. **Impact GEO-2: Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives.**

Significant Impact

As discussed on pages 4.5-14 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-2**).

Finding

The City Council finds that implementation of MM GEO-2 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

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- c. **Impact GEO-3: The project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature.**

Significant Impact

As discussed on pages 4.5-14 to 4.5-15 and summarized in Chapter 2 (pages 2-7 to 2-8) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature. This Geology and Soils impact can be mitigated to a less-than-significant level if, during construction, paleontological resources are encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. (Attachment A: Mitigation Measure **MM GEO-3**).

Finding

The City Council finds that implementation of MM GEO-3 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

4) Hazards and Hazardous Materials

- a. **Impact HAZ-1: Future occupants of the project site could be exposed to hazardous materials in indoor air from vapor intrusion during operation of the project.**

Significant Impact

As discussed on page 4.7-20 and 4.7-21 and summarized in Chapter 2 (page 2-8) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project could expose future occupants of the project site to hazardous materials in indoor air from vapor intrusion during operation of the project. This Hazards and Hazardous Materials impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for

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post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City Council finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

5) Hydrology and Water Quality

- a. **Impact HYDRO-1: Development of the proposed project could substantially degrade surface and groundwater quality.**

Significant Impact

As discussed on page 4.8-25 and 4.8-17 and summarized in Chapter 2 (page 2-9) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the development of the project could substantially degrade surface and groundwater quality. This Hydrology and Water Quality impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits for the project. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City Council finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the

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Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

6) Noise - Temporary/Construction Related Noise

- a. **Impact NOISE-1: Heavy equipment used in project construction could generate noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

Significant Impact

As discussed on pages 4.10-15 to 4.10-19 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction noise related to grading and construction activities on the site related to the Project will create a temporary, potentially-significant Noise impact by exposing sensitive receptors and adjacent residences to construction noise that exceeds limits allowed by the City's Noise Ordinance. This Noise impact can be mitigated to a less-than-significant level by requiring the applicant (BioMarin and Whistlestop) to use of noise-reducing measures included in the specifications and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA Lmax is not exceeded at the Whistlestop/Eden Housing project; the BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: (Attachment A; Mitigation Measure **MM NOISE-1a, 1b, 1c, and 1d**).

Finding

The City Council finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would less than significant.

- b. **Impact NOISE-2: The project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

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As discussed on pages 4.10-19 to 4.10-20 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The operation of the new buildings would include the use of new mechanical heating, ventilation, and air conditioning (HVAC) systems. Information regarding the noise-generating characteristics and locations of the equipment was not available at the time this analysis was conducted. Without standard controls in place, noise from mechanical equipment could potentially exceed 60 dBA Lmax/50 dBA Leq during daytime or 50 dBA Lmax/40 dBA Leq during nighttime at the nearest residential receptors and could exceed 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. The potential impact can be reduced to less than significant levels shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA Lmax/50 dBA Leq during daytime or 50 dBA Lmax/40 dBA Leq during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. (Attachment A; Mitigation Measure **MM NOISE-2**).

Finding

The City Council finds that implementation of MM NOISE-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- c. **Impact NOISE-3: Project construction could expose persons to or generate excessive groundborne vibration levels.**

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As discussed on pages 4.10-20 to 4.10-22 and summarized in Chapter 2 (pages 2-10 to 2-12) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Construction activities associated with the proposed project would result in varying degrees of groundborne vibration, depending on the equipment, activity, and soil conditions. Once constructed, the operation of the proposed project would not cause any vibration or result in excessive vibration impacts because no vibration-generating activities or land uses would occur on the project site. Implementation of the mitigation measures would further reduce the potential vibration impacts by ensuring that any affected sensitive receptors would have the ability to lodge complaints and that responses to the complaints would be provided. Therefore, with the identified mitigation, this impact will be less than significant. **(Attachment A; Mitigation Measure MM NOISE-1a, 1b, 1c, and 1d).**

Finding

The City Council finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

7. Transportation

- a. **Impact TRANS-1: The project would generate approximately 2,453 daily vehicle trips, with 236 vehicle trips during the weekday AM peak hour and 236 vehicle trips in the PM peak hour. Most of the vehicle trips would be generated by the BioMarin project (1,863 daily, 203 AM peak hour, and 191 PM peak hour trips). The project would increase single-occupancy vehicular travel and vehicular traffic along key roadways and intersections, as well as US 101. Maintaining the existing BioMarin travel mode shares would conflict with citywide policies and programs established to manage congestion and improve mobility as documented in San Rafael General Plan 2020.**

Significant Impact

As discussed on pages 4.13-22 to 4.13-22 and summarized in Chapter 2 (pages 2-14 to 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, any successive owner or lessor of the site shall monitor, on an annual basis, all traffic BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant.

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BioMarin and generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-1**).

Finding

The City Council finds that implementation of MM TRANS-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- b. **Impact TRANS-5: The project would add construction-related vehicle trips to City of San Rafael and other jurisdictional roadways, creating temporary traffic hazards. These conditions would conflict with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).**

Significant Impact

As discussed on pages 4.13-23 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Project construction would generate trips by trucks and other construction-related vehicles. During the construction period, construction would occur between 7:00 AM and 6:00 PM, Mondays through Fridays, and between 9:00 AM and 6:00 PM on Saturdays, and would be based on City of San Rafael restrictions. No construction would be allowed on Sundays or holidays or outside the weekday and Saturday hours described above, unless a request is made and approved by the Chief Building Official. Implementation of mitigation measure for Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets. (Attachment A; Mitigation Measure **MM TRANS-**

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5).

Finding

The City Council finds that implementation of MM TRANS-5 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- c. **Impact TRANS-6: Construction traffic would be staged and would use the roadway lanes adjacent to the site. This traffic would cause deterioration of pavement on 3rd Street, Brooks Street, 2nd Street and Lindero Street. These conditions would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).**

Significant Impact

As discussed on pages 4.13-23 to 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's construction traffic would lead to further deterioration of roadways near the project site, including along 3rd Street between Lindero Street and Brooks Street, Brooks Street between 3rd Street and 2nd Street, 2nd Street between Brooks Street and Lindero Street, and Lindero Street between 2nd Street and 3rd Street. Implementation of mitigation measures shall require the project applicants to improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-construction" study, followed by a "post-construction" survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval. (Attachment A; Mitigation Measure **MM TRANS-6**).

Finding

The City Council finds that implementation of MM TRANS-6 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- d. **Impact TRANS-7: Access to the project would be provided from six**

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unsignalized driveways. Motorist, pedestrian, and bicyclist sight lines to and from these driveways would be constrained if parking is allowed next to the driveways or landscaping blocks views. These conditions would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).

Significant Impact

As discussed on pages 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground. The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways. The implementation of these two mitigation measures would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-7a and 7b**).

Finding

The City Council finds that implementation of MM TRANS-7 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- e. **Impact TRANS-8: The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including at the corners of the following intersections peripheral to the project site where curb ramps are not Americans with Disabilities Act (ADA)-compliant: 3rd Street and Lindero Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindero Street. These conditions are inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the curb ramps at the four intersections adjacent to the project site are not in compliance with ADA design guidelines, presenting challenging travel conditions for mobility-impaired persons. The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including the existing non-compliant ramps at the four intersections peripheral to the project site. The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3rd Street

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and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. The implementation of this mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-8**).

Finding

The City Council finds that implementation of MM TRANS-8 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- f. **Impact TRANS-9: Currently a marked crosswalk, with curb ramps and pedestrian signals, is not present on the west leg of the 3rd Street and Lindaro Street intersection. The project would increase the number of pedestrians crossing 3rd Street at this location. Pedestrians walking to or from the project site may be inclined to cross the unmarked west leg instead of taking the more circuitous marked route (i.e., crosswalks across the intersection's south leg and east leg, as well as across the Walgreens driveway on the north leg). By increasing the number of pedestrians at this location, the project would worsen hazards by creating greater potential for conflicts between pedestrians and vehicles. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the provision of a marked crosswalk on the west leg of the intersection would create a more direct connection to downtown for pedestrians walking to or from the project site. The intersection's level of service would not degrade with the provision of the crosswalk. Peak hour vehicular speeds along 3rd Street would remain the same with or without the western crosswalk. The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. (Attachment A; Mitigation Measure **MM TRANS-9**).

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Finding

The City Council finds that implementation of MM TRANS-9 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- g. **Impact TRANS-10: Currently, pedestrian crossings of 3rd Street at Brooks Street are prohibited. The closest signalized crossing is located at A Street, which is about 240 feet to the west. The Whistlestop/Eden Housing project is expected to increase pedestrian crossing demands across 3rd Street at Brooks Street, as this route would offer the most direct path to and from downtown from the project site. Potential conflicts could arise as pedestrians use this unmarked location to cross 3rd Street's three westbound vehicular travel lanes. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the Transportation Impact Study concluded that, considering current illegal pedestrian crossings, project-related demand, and a shift of some of the pedestrians who currently cross at A Street, the warrant for the installation of a Pedestrian Hybrid Beacon across the east leg of 3rd Street and Brooks Street would be met during the weekday PM peak hour. The Pedestrian Hybrid Beacon would operate at LOS A. The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. (Attachment A; Mitigation Measure **MM TRANS-10**).

Finding

The City Council finds that implementation of MM TRANS-10 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project

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approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- h. **Impact TRANS-11: Vehicles turning left from southbound Brooks Street to eastbound 2nd Street currently have limited visibility to eastbound vehicles at this side-street stop sign controlled intersection due to the siting of the building at the northwest corner of the intersection. Southbound vehicles must proceed into the crosswalk on the north leg of the intersection, blocking pedestrian crossings, to increase the motorist's view of oncoming eastbound traffic. This condition would be exacerbated by the addition of project-related traffic, resulting in an increased potential for vehicle-vehicle and vehicle-pedestrian conflicts. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).**

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, by prohibiting egress from southbound Brooks Street onto 2nd Street, the limited visibility condition for vehicles turning left from southbound Brooks Street to eastbound 2nd Street would be eliminated. Some traffic would have to make additional turns, but overall impacts on adjacent intersections would be minor, with no level of service violations and with some improvements due to one-way flows. Travel speeds on 2nd Street would be negligibly affected. Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (Attachment A; Mitigation Measure **MM TRANS-11**).

Finding

The City Council finds that implementation of MM TRANS-11 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

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- i. **Impact TRANS-12:** The two proposed exit driveways to Brooks Street, one from the Whistlestop/Eden Housing project and the other from the BioMarin project access road, would provide limited sight lines to Brooks Street. This condition could lead to increased conflicts between egressing vehicles and other travelers on Brooks Street, including vehicles, pedestrians, and bicyclists. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, both egressing driveways would have limited sight lines due to the proposed buildings. The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (Attachment A; Mitigation Measure **MM TRANS-12**).

Finding

The City Council finds that implementation of MM TRANS-12 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- j. **Impact TRANS-13:** Emergency vehicles would have access to the project site via the Lindero Street driveways, the 3rd Street driveway, and the southernmost Brooks Street driveway. The project applicants propose to install sliding gates across the 3rd Street and southernmost Brooks Street driveways. The gates could affect emergency vehicle access if emergency services personnel could not open the gates. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).

Significant Impact

As discussed on pages 4.13-26 and 4.13-27 and summarized in Chapter 2 (pages 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the sliding gates across the 3rd Street and southernmost Brooks Street driveways would need to be accessible by emergency service providers. The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers. (Attachment A; Mitigation Measure **MM TRANS-13**).

Finding

The City Council finds that implementation of MM TRANS-13 will reduce this

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impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

D. SIGNIFICANT IMPACTS THAT CANNOT BE FULLY MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091 and 15092, the FEIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through the incorporation of mitigation measures. The FEIR concluded that although specific mitigation measures have been identified for the following Project Transportation and Circulation impacts, the impacts would nonetheless be considered significant and unavoidable, since the roadway intersections would continue to operate at Level of Service standards in excess of those established by the General Plan and there are no feasible mitigation measures to reduce these impacts to a less than significant level. Therefore, the City Council adopts a statement of overriding considerations included below:

1) Land Use & Planning

- a. **Impact LAND-1: The project could result in a conflict with San Rafael General Plan 2020 Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of this DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable. (PS)**

Significant Impact.

As discussed in Section 4.13, Transportation, the project would add a significant number of daily vehicle trips to this area of San Rafael, and levels of service at nearby intersections would be degraded. At the projected traffic levels, no mitigation measures would be able to reduce impacts to less-than-significant levels. The project would have to be significantly reduced in scale to reduce the number of projected trips, and this reduction would possibly conflict with the City's desire to increase downtown development for the purposes of infill development and economic development. Thus, such a reduction in scale was not considered feasible for the project, and the impact remains significant and unavoidable.

Finding: As discussed on pages 4.9-9 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project is currently within the 2/3 MUE land use designation per the *San Rafael General Plan 2020*.

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The project could result in a conflict with *San Rafael General Plan 2020* Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of the DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable

2) Transportation

- a. **Impact TRANS-2: Project-related traffic, under Cumulative-plus-Project conditions, would contribute to continued LOS F conditions at the US 101 southbound off-ramp to Mission Avenue, increasing the volume-to-capacity (V/C) ratio of the off-ramp by 0.033 during the AM peak hour. Traffic operations and safety at the highway ramp diverge and along the offramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.**

Significant Impact.

The number of employees at the BioMarin site would need to be reduced by 80 percent (from 550 employees to 112 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Provision of a second off-ramp lane and southbound auxiliary lane on US 101 would be impractical.

Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetherington Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

- b. **Impact TRANS-3: Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetherington Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).**

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Significant Impact.

The project would increase traffic along 3rd Street between Hetherton Street and D Street, exacerbating vehicular delays and reducing travel speeds along this key arterial roadway segment. The number of employees at the BioMarin site would need to be reduced by 28.5 percent (from 550 employees to 393 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations.

Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

- c. **Impact TRANS-4: Under Cumulative-Plus-Project conditions, project-related traffic would worsen the service level at the 3rd Street and Tamalpais Avenue West intersection from LOS E to LOS F during the AM peak hour, with average delays increasing from 65.6 seconds to 96.7 seconds per motorist. During the PM peak hour, the intersection's service level would remain at LOS F with project-related traffic, but the project would increase average delays from 86.4 to 94.0 seconds per motorist. This impact would create conflicts with San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).**

Significant Impact.

Under Cumulative-Plus-Project conditions, the project would result in added traffic back-ups along westbound 3rd Street at Tamalpais Avenue West. Implementing more aggressive TDM measures (see Mitigation Measure TRANS-1) could assist in reducing the increased traffic demand, but the impact would still be significant. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations. The number of employees at the BioMarin site would need to be reduced by 58.3 percent (from 550 employees to 229 employees) compared to the proposed use to alleviate this impact.

Finding

As discussed in Chapter 4.13 (pages 4.13-22 to 4.13-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

E. IMPACT OVERVIEW

1) Significant Irreversible Environmental Changes

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Pursuant to CEQA Guidelines Section 21100(b)(2)(B), an EIR shall include a discussion of significant irreversible environmental changes that would result from implementation of a project.

CEQA Guidelines Section 15126.2(c) describes irreversible environmental changes in the following manner: “Uses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the Project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.”

As discussed in Chapter 6.1 (page 6-1) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction activities associated with the proposed structures at the site of the BioMarin and Whistlestop/Eden Housing Project would be permanent buildings; therefore, their installation would constitute an irreversible use of these lands, as it is unlikely that the buildings would be removed. The proposed project would irretrievably commit materials to the construction and maintenance of the new buildings. Nonrenewable resources such as sand, gravel, and steel, and renewable resources such as lumber, would be consumed during project construction. In addition, the construction and operation of the proposed project would result in the use of energy, including electricity and fossil fuels. While the consumption of such resources associated with construction would end upon completion of the proposed construction, the consumption of such resources associated with operation would represent a long-term commitment of those resources.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant irreversible effects will result from implementation of the Project.

2) Growth Inducement

Pursuant to CEQA Guidelines Section 15126.2(d), a project is considered growth-inducing if it would directly or indirectly foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and development of new residential subdivisions or industrial parks in areas that are currently only sparsely developed or are undeveloped. Typically, redevelopment projects on infill sites that are surrounded by existing urban uses are not considered growth-inducing because redevelopment by itself usually does not facilitate development intensification on adjacent sites.

As discussed in Chapter 6.3 (page 6-2) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project would be developed on an existing disturbed but vacant site in downtown San Rafael. Services are readily available in this area. The project site is surrounded by existing commercial and residential development. The proposed project would not require

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wastewater or water lines that would cross undeveloped lands and create the potential for new development. No major road improvements would be associated with the proposed project except that, over the long term, some local improvements to vehicular, pedestrian, and bicycle circulation may occur. The significant amount of proposed on-site commercial development, with 207,000 square feet of laboratory and office space for BioMarin and 18,000 square feet of health services-related facilities for Whistlestop/Eden Housing, could result in an increased demand for housing within San Rafael. According to the Marin County Community Development Agency, the rental vacancy rate in Marin County is currently below 3 percent, when a “healthy” rate is closer to 6 or 7 percent (City of San Rafael, 2019). Thus, the demand for a limited number of housing units tends to drive up prices for local housing. According to the most recent San Rafael General Plan Housing Element, more than 87 percent of those employed in San Rafael reside in other cities, implying an imbalance of jobs and housing (City of San Rafael, 2019). This imbalance leads to increased commuting demands and associated traffic, air quality, and noise impacts. Recently, the City of San Rafael approved a project at 703-723 3rd Street that will add 120 residential units within three blocks of the project site. This residential development would help to offset the increased non-residential development of the proposed project. However, there could remain a need for more housing for project employees. In this sense, the project would have growth-inducing impacts related to the need for more local housing.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant growth-inducing effects will result from implementation of the Project.

F. REVIEW OF PROJECT ALTERNATIVES

The CEQA Guidelines indicate that an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” (Guidelines§ 15126.6[a].)

The Project Alternatives selected for this EIR were formulated considering the Objectives of the City of San Rafael and BioMarin/Whistlestop/Eden Housing’s Objectives stated in Chapter 3 (pages 3.9 to 3.10) and outlined in Chapter 5 of the DEIR (pages 5-1 - 5-28). Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is then used to consider reasonable, feasible options for minimizing environmental consequences of a project.

The Project Alternatives analyzed in the following sections include:

- No Project/No Medical Office Uses
- Reduced Scale Alternative
- Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing Project Alternative
- Code-Compliant BioMarin and Whistlestop/Eden Housing Project Alternative

1. **Alternative 1: No project:** (as required by CEQA). Alternative 1, the No Project Alternative, would leave the project site unchanged. No drainage, access, parking,

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or other improvements would be made to the vacant site, which was once occupied by PG&E facilities. The No Project Alternative would leave this central San Rafael location unimproved.

The No Project Alternative would not meet any of the objectives of the proposed project.

Finding

The City Council (1) rejects this No Project Alternative on the basis that it fails to meet basic project objectives and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

The No Project Alternative fails to meet any of the Project objectives, specifically:

- This Alternative would not improve the site, which would remain as undeveloped.
- No new infrastructure or traffic improvements would be included in this Alternative.
- This Alternative would not allow Whistlestop/Eden Housing to develop 67 units of much needed senior affordable housing.
- The No Project Alternative is also infeasible for policy reasons, as it fails to comply with the intent of the City's *General Plan 2020*, which promotes economic vitality (Policy EV-2 Seek, Retain, and Promote Businesses that Enhance San Rafael) and an overarching vision for the Downtown Area (NH-55. Design Excellence).
- From a policy and social perspective, without development of the proposed Project, redevelopment of the Project site would likely be postponed indefinitely, new laboratory and office facilities would not be created on-site, and BioMarin would be required to find an alternate location(s) for the Project. In addition, Whistlestop / Eden Housing would not be able to build the Healthy Aging Campus as a result of this No Project Alternative, and, therefore would continue to experience the same operational loads and space challenges with regard to future modernization.

2. **Alternative 2: Reduced Scale Alternative:** Alternative 2 would consist of a project that is similar to the proposed project but reduces the amount of overall proposed laboratory and office space of the BioMarin project, thereby reducing the anticipated peak hour traffic trips and other impacts. This alternative would reduce the overall number of employees at BioMarin from 550 to 229 employees, or by 58.3 percent. This reduction in employees could result in the project's significant, unavoidable traffic impacts at the following locations becoming less-than-significant impacts:

- 3rd St/Tamalpais Ave West intersection (cumulative-plus-project condition during AM and PM peak hour).
- 3rd St between Hetherton St and D St (westbound during AM peak hour).

This alternative assumes the total square footage for the two BioMarin buildings under Alternative 2 would be 120,240 square feet, compared to the 207,000 sq. ft. under the proposed project. The office portion would be reduced by a slightly larger

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amount than the laboratory and retail space. The alternative would include two stories for Building A (reduced to 52,340 sq. ft.) as compared to the proposed project's four stories for Building A. Building B (67,900 sq. ft.) would be three stories with the top floor set back and with reduced square footage (as compared to the project's four stories for Building B). Otherwise, the site plan for the overall project would be similar to that of the proposed project.

Impacts

Alternative 2 would meet all of the project objectives except the primary objective. Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing component of the project would also not occur.

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 60% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- General site improvements included as part of the Project would be included in this Alternative.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space shortfall with regard to company needs.
- BioMarin would not feasibly be able to build this Alternative, and would therefore not donate the site the Whistlestop/Eden Housing. No Healthy Aging Campus would be developed as a result of this Alternative.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County and no Healthy Aging Campus would be developed. Both BioMarin and Whistlestop / Eden Housing would not be able to develop the Project in downtown San Rafael.

3. **Alternative 3: Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing project:** This alternative would assume a reduced height BioMarin project that would not require General Plan amendments for FAR, height bonuses, or parking modifications;

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BioMarin Project under Alternative 3

Alternative 3 would reduce the building height of the BioMarin project to 54 ft. to comply with existing General Plan provisions and zoning for the site, with no bonus exemptions and no rezoning to Planned Development for the BioMarin portion of the site. The FAR would be increased from the proposed 0.90 to 1.50, as allowed by existing General Plan provisions and zoning, allowing a total of 199,649 sq. ft. for BioMarin on the site. The FAR limit would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3 of the DEIR). This Alternative assumes a total of 220 parking spaces would be required to be provided on the site. This would be in addition to public parking that is assumed to allow the height bonus.

Whistlestop/EDEN Housing Project under Alternative 3

This alternative assumes that the Whistlestop/Eden Housing project would be located off the project site at 930 Tamalpais Avenue, where Whistlestop is currently located. It is assumed that 41 units of affordable senior housing (one of these would be a manager's unit) would be provided in a five-story building similar to the design proposed in 2016. This project assumes residential units on the third through fifth floors and the Whistlestop Active Aging Center, with classrooms, offices, and meeting rooms on the second and third floors. The ground level would contain parking and utility uses, along with the Jackson Café. Access to transit would be available via (1) van service (Marin's Whistlestop Wheels Para Transit) with access at the ground-level garage, (2) buses at the adjacent San Rafael Transit Center, and (3) regional rail at the SMART station located at the east edge of the site. A total of 20 parking spaces would be provided in a street level garage for use by Whistlestop employees and guests.

Impacts

Alternative 3 would meet all of the project objectives except four objectives (1, 2, 3, and 12). Alternative 3 would have reduced square footage for the BioMarin buildings and would not meet BioMarin's needs for R&D and laboratory infrastructure. The relocation of the Whistlestop/EDEN Housing project to its Tamalpais Avenue site would conflict with the second objective above. This alternative would also have fewer senior housing units and thus would conflict with the goal of providing 67 affordable rental housing units for seniors.

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 10% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations

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that may not be as centrally located or have ease of access or available parking.

- Whistlestop/Eden Housing would not be able to develop the Healthy Aging Campus and would not develop 67 units of senior affordable housing.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

4. Alternative 4: Code-Compliant BioMarin and Whistlestop/Eden Housing

project: Under Alternative 4, the FAR would be increased from the proposed 0.90 to 1.50, allowing a total of 199,649 square feet for both BioMarin (181,649 sq. ft.) and the non-residential portion of Whistlestop/Eden Housing (18,000 sq. ft.). The Whistlestop/Eden Housing project would occupy 0.34 acre of the project site under this alternative and is assumed to be approximately the same as the proposed project in scale and height, given that the height bonuses allowed by the provision of affordable housing. It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (or 23,380 sq. ft.). With 181,649 sq. ft. for BioMarin, both Buildings A and B would be four stories in height. This alternative may have reduced square footage for laboratory space.

Unlike Alternative 3, Alternative 4 is not assumed to have public parking on the site. The project site is located within the Downtown Parking District which waives parking requirements for the first 1.0 of FAR. With this alternative having an FAR of 1.50, parking required for BioMarin would be approximately 210 parking spaces. It is assumed that an eight-story parking structure of about 150 ft. by 170 ft. could be constructed on the corner of 2nd St. and Lindaro St.. The parking structure height results from the fact that only 35 cars can be provided on each floor, given circulation requirements. Assuming 10 feet per floor, this parking structure would be about 60 ft. in height, or about the same size as the proposed BioMarin building height for the proposed project.

Alternative 4 would meet all of the project objectives as listed at the beginning of this chapter except the provision of the same square footage for laboratory space and the following objective *“Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.”*

Impacts

Alternative 4 would meet most of the project objectives as listed at the beginning of this chapter except two main objectives (1 and 12). Alternative 4 would have reduced square footage for the BioMarin buildings and would not meet BioMarin’s needs for R&D and laboratory infrastructure and would require a large parking

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structure constructed on site. Significant and Unavoidable Impacts to Land Use and Planning and Transportation would continue to exist under this Alternative

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 30% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.
- Significant and Unavoidable Impacts to Land Use and Planning and Transportation would occur under this Alternative

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

Environmental Superior Alternative

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied. The DEIR concludes (Chapter 5; page 5-26) that the Environmentally Superior Alternative is the Alternative 2: Reduced Scale project for the following reasons:

- The smaller scale BioMarin Buildings A and B would reduce some of the local traffic congestion.
- The reduction in building height for Buildings A and B would also result in slightly reduced visual impacts for the project when viewed along 2nd Street and 3rd Street.
- Alternative 2 would retain the Whistlestop/Eden Housing project on the project site, which is a preferred site compared to its existing location at 930 Tamalpais Avenue.
- Alternative 2 would meet all of the project objectives as listed at the beginning of this chapter except the following primary objective:
 - Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for

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BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

Rejection of Environmentally Superior Alternative:

Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden Housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. This alternative would not meet one of the primary objectives of BioMarin. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing project would also not occur.

G. STATEMENT OF OVERRIDING CONSIDERATIONS

Although the Environmental Superior Alternative would reduce a majority of the significant and unavoidable impacts to less than significant levels, it would not achieve the primary objective for BioMarin:

Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

As such, BioMarin would not build the project which would in turn prevent the Whistlestop/EDEN Housing project from occurring. Therefore, the project as proposed, will require the City of San Rafael City Council adopts the following Statement of Overriding Considerations based on information in the FEIR and all other information in the record, including the proposal of public benefits outlined in the January 10, 2020 Development Agreement Term Sheet from BioMarin to the City of San Rafael (on file with the Department of Community Development). The City Council recognizes that significant and unavoidable impacts would result from implementation of the Project.

Pursuant to Section F of this Resolution, the City Council determines that the Proposed Project provides benefits that outweigh the any of the environmental superior alternative. The City Council hereby declares that, pursuant to State CEQA Guidelines Section 15093, it has balanced the benefits of the Project against any unavoidable environmental impacts in determining whether to approve the Project. Pursuant to the State CEQA Guidelines, if the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered "acceptable."

The City Council hereby declares that the EIR has identified and discussed significant effects which may occur as a result of the Project. With the implementation of the Mitigation Measures discussed in the EIR and adopted by this Resolution, these effects

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can be mitigated to a level of less than significant except for the two unavoidable significant impact discussed in Section F of this Resolution.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project. The City Council hereby declares that to the extent any Mitigation Measures recommended in the EIR would not be incorporated, such Mitigation Measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social and other benefits that this City Council finds outweigh the unmitigated impacts.

The City Council further finds that all alternatives set forth in the EIR are rejected as being either inconsistent with project objectives, infeasible because they would prohibit the realization of specific policy, social and other benefits that this City Council finds outweigh any environmental benefits of the alternatives, or are otherwise not environmentally superior.

The reasons discussed below summarize the benefits, goals and objectives of the Project, and provide, in addition to the findings, the detailed rationale for adoption of the Project. Collectively, these overriding considerations are sufficient to outweigh the adverse environmental impacts of the Project.

The City Council hereby declares that, having reduced the adverse significant environmental effect of the Project to the extent feasible by recommending adoption of the Mitigation Measures contained in this Resolution, having considered the entire administrative record on the Project, and having weighed the benefits of the Project against its unavoidable adverse impact after mitigation, the City Council finds that each of the following social, economic and environmental benefits of the Project separately and individually outweigh the single potential unavoidable adverse impact and render that potential adverse environmental impact acceptable based upon the following overriding considerations:

The City Council adopts the following Statement of Overriding Considerations based on information in the FEIR, other information in the record including the proposal of public benefit outlined in the January 10 Development Agreement terms sheet from BioMarin (on file with the Department of Community Development). The City Council recognizes that significant and unavoidable impacts would result from implementation of the project. The City has imposed all feasible mitigation to reduce the project's significant impacts to a less-than-significant level. The City Council further finds that except for the project, all other alternatives set forth in the Draft EIR are infeasible because they would prohibit the realization of the project objectives of providing needed retail services. Having adopted all feasible mitigation measures and recognized the significant, unavoidable environmental effects, the City Council hereby finds that the benefits outweigh and override the significant unavoidable effects for the reasons stated below.

The reasons discussed below summarize the benefits, goals and objectives of the proposed project, and provide, in addition to the findings, the detailed rationale for the project. Collectively, these overriding considerations would be sufficient to outweigh the adverse environmental impacts of the project.

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1. Furtherance of City Goals and Policies

The proposed project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The project will also support San Rafael's Objectives and Design Guidelines for the Downtown by proposing a design that provides an entry and focal point for the 2nd/3rd Street corridor, advances the "Alive after Five" policy, and allows expansion of a major downtown employer. Lastly the BioMarin development will allow the relocation and development of a new Whistlestop Healthy Aging Center and 67 affordable units for seniors in the downtown

2. Development of an Existing Infill Site

The project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including the SMART station, and will not directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.

3. Voluntary donation of development area

BioMarin is donating the Northwestern Portion of their site to Whistlestop/EDEN housing for development of a healthy aging campus and affordable senior housing. This donation, along with a land swap to BioMarin of another property owned by Whistlestop in San Rafael yields a net donation by BioMarin of approximately \$1.2 million as of June 2018, in its then current as-is condition. This obligation shall be required prior to the issuance of any certificate of occupancy for development on the R&D Development Property.

4. Voluntary monetary contribution for Shuttle Service

BioMarin will contribute, \$400,000 (\$100,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.

5. Voluntary monetary contribution for Signal Synchronization

BioMarin will contribute \$500,000 (\$125,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/ circulation/parking improvement measures as determined by the City.

6. Development opportunity for Whistlestop/EDEN Housing

The remediation performed by PG&E of this site was not performed on the entire site. In addition, the level of cleanup was not such that would met the State DTSC standards for residential use of the property. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is currently conducting the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Following this cleanup, the site would be able to accommodate residential

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use. BioMarin shall complete such second phase of remediation prior to commencement of construction and development activities for the 999 3rd Street Project and the development of the Whistlestop component of the project.

7. Leaseback donation for Whistlestop/Eden Housing

BioMarin to conduct a land exchange as part of the donation of the parcel to Whistlestop/Eden Housing. BioMarin shall donate to Whistlestop a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

8. Provide Public Meeting Space and urban open space

BioMarin provides a portion of the 999 3rd Street Project consisting of approximately 3,500 square feet of retail space and approximately 6,000 square feet of landscaped plaza and located at the corner of 3rd Street and Lindaro Street, shall be open to the public during daytime hours (from 9 a.m. to 5:00 p.m.).

9. Contributions to Pedestrian/Bicycle safety

BioMarin shall develop a class II bike lane on Lindaro Street from 3rd Street to Anderson Dr prior to completion of Phase I. BioMarin shall also contribute to City's enhancement of pedestrian safety by improving the sidewalks and crosswalk design at the corner of Lindaro Street and 2nd Street prior to completion of Phase I.

10. Public Parking

Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.

H. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A, to be made a condition of approval of the Revised Project. In the event of any inconsistencies between the Mitigation Measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

I. STAFF DIRECTION

A Notice of Determination shall be filed with the County of Marin and the State Clearinghouse within five (5) working days of final Project approval.

BE IT FURTHER RESOLVED, the City Council approves an Exception to the City-adopted level of service traffic standards set forth in San Rafael General Plan 2020 Circulation Element Policy C-5 (*Traffic Level of Service Standards*) per Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*). The Exception is warranted and substantiated based on the finding that the project provides significant economic, social, and/or other benefits to the community that substantially outweigh the

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project's impacts on circulation network. The specific benefits found to outweigh the impacts are identified in the Statement of Overriding considerations section above. Furthermore, the City Council finds that all feasible mitigation measures have been required of the project.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

LINDSEY LARA, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program (MMRP)

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EXHIBIT A: MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
AIR QUALITY						
<p><u>AIR-1:</u> During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▪ All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. ▪ A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event less than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation</p>	Both applicants' contractors	City	Prior to start of construction and at time of contract specifications			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>Implementation of Mitigation Measure AIR-1 would reduce potentially significant impacts of fugitive dust emissions during project construction to a less-than-significant level.</p>						
CULTURAL RESOURCES						
<p><u>CULT-1</u>: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:</p> <p>“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified</p>	Both applicants’ contractors	City	At time of contract specifications and at time of deposit encounter, as applicable			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”						
<u>CULT-2</u> : Mitigation Measure CULT-1 shall be implemented.	See CULT-1	See CULT-1	See CULT-1			
GEOLOGY AND SOILS						
<u>GEO-1</u> : The project applicants shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans.	Both applicants	City	Prior to issuance of grading and building permits			
<u>GEO-2</u> : The project applicants shall implement Mitigation Measure GEO-1.	See GEO-1	See GEO-1	See GEO-1			
<u>GEO-3</u> : Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4)	Both applicants’ contractors	City	At time of encounter of paleontological resources, as needed			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p> <p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p> <p>“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>						

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
HAZARDS AND HAZARDOUS MATERIALS						
<p>HAZ-1: Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment.</p> <p>Implementation of Mitigation Measure HAZ-1, compliance with the requirements of the Covenant and O&M Plan as required by DTSC, and compliance with existing regulations related to hazardous materials that would be handled during operation of the project would ensure that the proposed project would result in less-than-significant impacts related to accidental releases of hazardous materials during operation.</p>	Both applicants	City	Prior to approval of building permits			
HYDROLOGY AND WATER QUALITY						
<p>HYDRO-1: Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface.</p>	Both applicants	City	Prior to approval of building permits			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits.						
<u>HYDRO-2</u> : The project applicants shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.	Both applicants	City	Prior to issuance of grading and building permits			
LAND USE AND PLANNING						
<u>LAND-1</u> : No feasible mitigation measures are available, and therefore this impact would be significant and unavoidable on both a project and cumulative basis.	Not applicable	Not applicable	Not applicable			
NOISE						
<u>NOISE-1a</u> : After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B to implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction. A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall select the timing and location of the measurements to be as close to future residents of the Whistlestop/	Both applicants	City	During construction			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.</p> <p>The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC) rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.</p>						
<p>NOISE-1b: The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications:</p> <ol style="list-style-type: none"> 1. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment. 2. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible. 3. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction. 	Both applicants and contractors	City	During construction			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>4. Use "quiet" air compressors and other stationary noise sources where technology exists.</p> <p>5. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible.</p> <p>6. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity.</p> <p>7. Prohibit all unnecessary idling of internal combustion engines.</p>						
<p>NOISE-1c: The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:</p> <p>1. Designation of an on-site construction complaint and enforcement manager for the project.</p> <p>2. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence.</p> <p>3. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.</p>	Both applicants' contractors	City	Prior to and during construction			
<p>NOISE-1d: Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The</p>	Both applicants and contractors	City	At time of developing			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b.</p> <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event fewer than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>The combination of the four mitigation measures above would reduce the impact to a less-than-significant level.</p>			contract specifications and during construction			
<p><u>NOISE-2:</u> The project applicants shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA $L_{max}/50$ dBA L_{eq} during daytime or 50 dBA $L_{max}/40$ dBA L_{eq} during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA $L_{max}/55$ dBA L_{eq} during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency generators, acoustical screen walls, and equipment enclosures.</p>	Both applicants	City	Prior to issuance of occupancy permits			
<p><u>NOISE-3:</u> Mitigation Measures NOISE-1a through NOISE-1d shall be implemented.</p>	Both applicants	City	Prior to issuance of occupancy permits			
TRANSPORTATION						
<p><u>TRANS-1:</u> BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer</p>	BioMarin	City	Annually during operation			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant.						
<u>TRANS-2</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-3</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-4</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-5</u> : Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets.	Both applicants	City	Prior to and during construction			
<u>TRANS-6</u> : The project applicants shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-	Both applicants	City Engineer	Prior to and after construction			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
construction” study, followed by a “post-construction” survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval.						
<u>TRANS-7a</u> : The project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.	Both applicants	City	During operation			
<u>TRANS-7b</u> : The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project’s six driveways. The combination of these two mitigation measures would reduce the impact to less than significant.	Both applicants	City	During operation			
<u>TRANS-8</u> : The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3 rd Street and Lindaro Street, 3 rd Street and Brooks Street, 2 nd Street and Brooks Street, and 2 nd Street and Lindaro Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-9</u> : The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3 rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer.	Both applicants	City Engineer and City	Prior to issuance of occupancy permits			
<u>TRANS-10</u> : The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3 rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<u>TRANS-11</u> : Vehicle travel on Brooks Street at 2 nd Street shall be limited to one-way northbound/ outbound -inbound only. Brooks Street at 3 rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3 rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
<u>TRANS-12</u> : The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-13</u> : The sliding gates at the 3 rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers.	BioMarin only	City Fire and Police Departments	Prior to issuance of occupancy permits			

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RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL
ADOPTING AMENDMENTS (GPA18-001) TO THE SAN RAFAEL GENERAL PLAN 2020,
INCLUDING: A) AMENDING LAND USE ELEMENT EXHIBIT 6: FLOOR AREA RATIO (FAR)
MAPS; AND B) LAND USE ELEMENT EXHIBIT 10: HEIGHT BONUSES, TO ALLOW THE
DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT
BUILDINGS ON A 133,099 SQ. FT. PARCEL AT 999 3rd St AND ADJACENT
SAN RAFAEL CORPORATE CENTER
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in November 2004, the City of San Rafael adopted the San Rafael General Plan 2020 and certified the supporting Final Environmental Impact Report for the plan; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA19-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Rezoning (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), and Development Agreement (DA19-001) for the development of two, 72-foot tall, four-story laboratory/research and development and office buildings totaling 207,000 sq. ft., for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3rd Street property to be incorporated into the existing San Rafael Corporate Center (SRCC) PD District. The total site area of the amended SRCC campus would be 795,021 sq. ft.; and

WHEREAS, the project application for BioMarin includes a request to modify the existing Floor Area Ratio (FAR) for the 118,099 square feet of the 999 3rd Street property from 1.50 to 0.90 and a request to modify the existing FAR for the SRCC from 0.75 to 0.90. The total FAR of 0.90 for the newly amended SRCC would allow the two proposed buildings of the BioMarin project, totaling 207,000 sq. ft., to be included in the total allowed campus development of 715,519 sq. ft.; and

WHEREAS, on February 28, 2019, in accord with California Government Code Section 65352.3(a), specifically the directive of Senate Bill 18 (SB18), the Department of Community Development staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose an amendment to the local General Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in Section 5097.9 and 5097.993 of the California Public Resources Code. The prescribed 90-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, following the initial filing of the BioMarin/Whistlestop/Eden Housing planning applications, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included: a) the publication of a Notice of

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Preparation (NOP) in February 2019 for the purpose of scoping the topic areas of study for the preparation of an Environmental Impact Report; b) the preparation and publication of a Draft Environmental Impact Report (DEIR) in August 2019, which included a 45-day public review process and Planning Commission public hearing for commenting on the DEIR; and c) the preparation of a Final Environmental Impact Report (FEIR) by responding to all comments made and submitted on the DEIR; and

WHEREAS, the FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the FAR modification and Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in significant impacts, in that it would not be in potential conflict, with San Rafael General Plan 2020 Land Use Element Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (*Planned Development*), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development; and

WHEREAS, the FEIR states that there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project. According to Public Resources Code Section 21082.2, subdivisions (a) and (e), the lead agency (City) is tasked with determining the significance of impacts and statements in an FEIR are not determinative of significance. As set forth in the CEQA findings for this project, adopted by the City Council by separate resolution, the City has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue. The City, however, has determined that the project is consistent with all of the pertinent General Plan goals and policies, including Policies LU-2 and C-5. Specifically, Policy C-5 allows the City to approve projects that exceed the level of service (LOS) standards if it finds that the benefits of the project to the community outweigh the resulting traffic impacts. The project, therefore, meets the traffic standards set forth in the San Rafael General Plan 2020. Further, because the project meets the traffic standards set forth in Policy C-5, and other infrastructure such as water and sewer is in place, the project is consistent with Policies LU-2. As explained in the FEIR, per CEQA Guidelines Section 15063, in order to adopt the proposed amendment to the San Rafael General Plan 2020, the City must weigh the benefits of the project against the unavoidable, adverse environmental (traffic) effects of the project and adopt a statement of overriding consideration. Similar findings are required by San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which permits the City to approve a project that exceeds the LOS standards if the City finds that the project's benefits to the community outweigh the project's traffic impacts; and

WHEREAS, in considering the General Plan Amendment application, the City Council has reviewed and weighed the proposed project benefits against the unavoidable, adverse environmental effects. By separate resolutions, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), the City Council adopted the CEQA Findings of Fact, an exception to the Circulation Element Policy C-5 (*Level of Service*), and a Statement of Overriding Considerations, which supports approval of the proposed project and the accompanying General Plan Amendment application (GPA18-001). This separate resolution also approves a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

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WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of separate resolutions, recommended to the City Council 1) adoption of the Planned Development (PD) Rezoning (ZC18-002), 2) adoption of Zoning Ordinance Text Amendment (ZO18-003), 3) approval of a Development Agreement (DA19-001), and 4) approval of Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-18-006); and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of two separate resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department;

NOW, THEREFORE, BE IT RESOLVED, that the City Council approves General Plan Amendment application GPA18-001, amending the San Rafael General Plan 2020 as follows:

Modify **Exhibit 6** in the Land Use Element to create a new 0.90 FAR for the total revised San Rafael Corporate Center campus. The 999 3rd Street site has a FAR maximum of 1.50, while the current SRCC PD District has a FAR maximum of 0.75. The newly created FAR would preserve development rights on the SRCC PD District and also allow for the total 207,000 sq. ft. of development of the proposed BioMarin project. The proposed modified General Plan Exhibit 6 is shown as **Exhibit A** attached and incorporated herein by reference.

Modify **Exhibit 10** in the Land Use Element to create a new Height Bonus for 999 3rd Street property to be combined with the existing San Rafael Corporate Center campus. BioMarin has provided public benefits, including a development area for the Whistlestop/EDEN Housing project, which is considered a significant public and community benefit. The proposed modified General Plan Exhibit 10 is shown as **Exhibit B** attached and incorporated herein by reference.

This General Plan Amendment is based on and supported by the following findings:

1. The proposed amendments to Land Use Element Exhibit 6 and Exhibit 10 would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 in that:
 - a. Although the proposed amendment has the potential to be in conflict with San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*)

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and Circulation Element Policy C-5 (*Traffic Level of Service*), which are adopted for the purpose of avoiding or mitigating a physical, environmental effect associated with traffic, the City Council has determined, through adoption of a separate resolution of CEQA Findings of Fact and Statement of Findings of Overriding Consideration, that the benefits of the General Plan amendment outweigh the unavoidable, adverse environmental effects of the action. These findings conclude that the amendments would be consistent with and implement Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts. The findings in this separate resolution are reaffirmed herein to support this action to amend the San Rafael General Plan 2020.

- b. The action would be consistent with and implement San Rafael General Plan 2020 Neighborhood Element Program NH-40, which encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC.
 - c. As drafted, overall, the amendments would be consistent with: a) Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second/Third Mixed Use District Design Considerations*), by promoting a high quality mixed-use development in the downtown designated areas; b) Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.
2. The public interest would be served by the adoption of the proposed amendments to Land Use Element Exhibit 6 and Exhibit 10, which would modify the permitted Floor Area Ratio and maximum Height Bonus for the 999 3rd Street property to be included in the newly modified San Rafael Corporate Center in that:
- a. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.
 - b. The proposed blended 0.90 Floor Area Ratio will reduce the existing 999 3rd Street FAR but raise the existing SRCC FAR from 0.75 to 0.90. The net change will result in a total floor area that will be an increase in 30,678 sq. ft. for the newly modified total project area.
 - c. This action would be consistent with and implement San Rafael General Plan Neighborhoods Policy NH-40 (*Second Third Mixed Use District*). Program NH-40, which is specific to the Second/Third Mixed Use District in the downtown area, encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC. As anticipated, the proposed land use change to the General Plan has been initiated and proposed in conjunction with the expanded San Rafael Corporate Center PD District.
 - d. This action would provide desired public benefits and amenities as described in the modified Exhibit 10, including: Affordable housing (minimum 60 units), a

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privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.

- e. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS

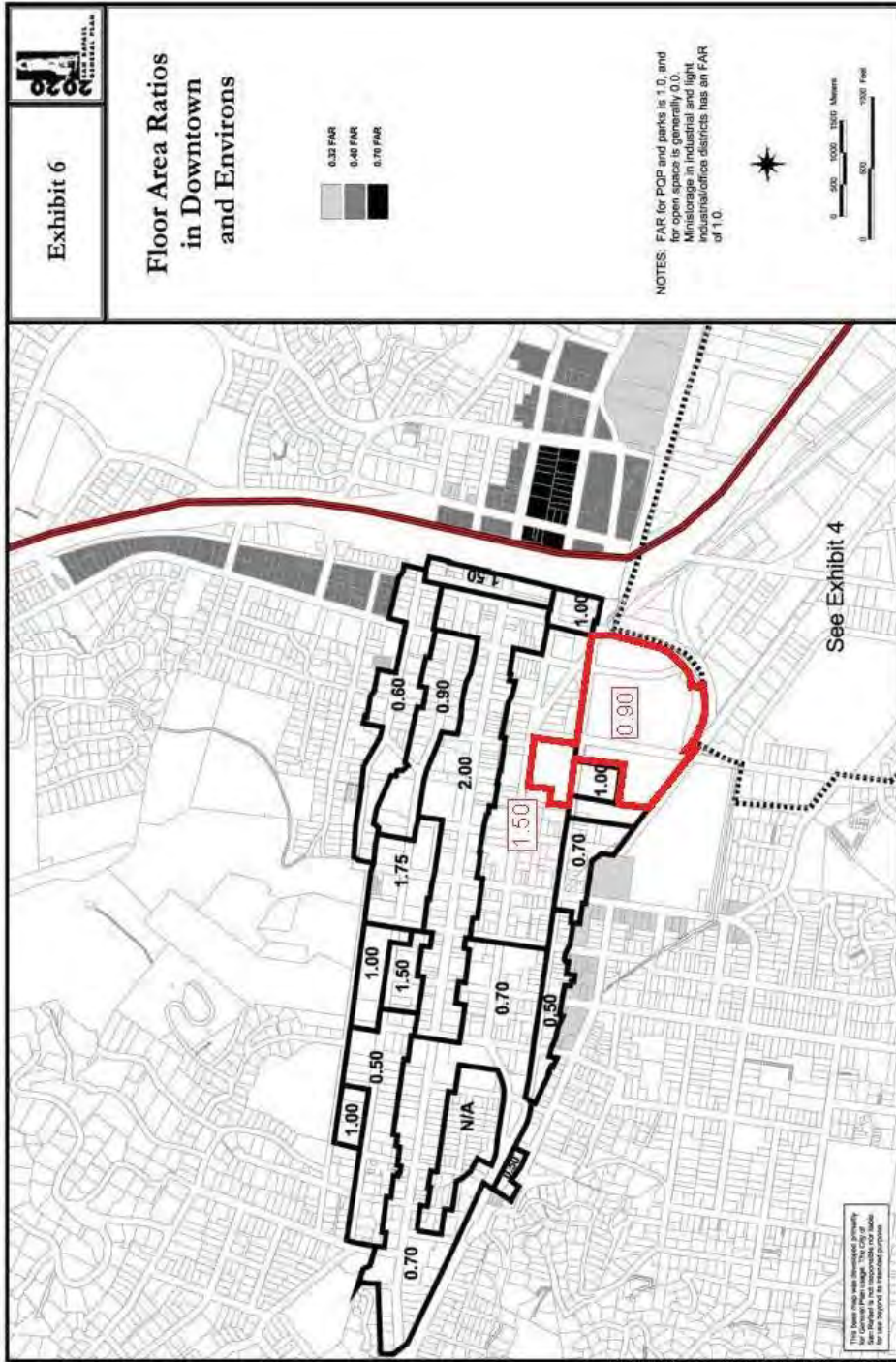
NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

LINDSAY LARA, City Clerk

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Exhibit A Amendment to General Plan 2020 Exhibit 6 – FAR



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Exhibit B Amendment to General Plan 2020 Exhibit 10 – Height Bonuses

Note: New language illustrated with underline text

Location	Maximum Height Bonus	Amenity (May provide one or more of the following)
Fourth Street Retail Core Zoning District	12 feet	Affordable housing Public courtyards, plazas and/or passageways (consistent with Downtown Design Guidelines) Public parking (not facing Fourth Street)
PG&E site in the Lindero Office land use district	24 feet	Park (privately maintained park with public access, adjacent to Mahon Creek; an alternative is tennis courts tied to Albert Park.) Community facility (10,000 sq. ft. or more in size)
Second/Third Mixed Use East Zoning District	12 feet	Affordable housing Public parking Overhead crosswalks Mid-block passageways between Fourth Street and parking on Third Street
<u>999 Third St</u>	<u>20 feet</u>	<u>Affordable housing (minimum 60 units)</u> <u>Privately owned public plaza (5,000 sq. ft. or more in size)</u> <u>Community facility (e.g. senior center, 10,000 sq. ft. or more in size)</u> <u>Pedestrian crossing safety improvements at adjacent intersections</u> <u>Donation of funds for development of bike lanes</u>
Second/Third Mixed Use West District, north of Third Street and east of C Street	18 feet	Public parking
West End Village	6 feet	Affordable housing Public parking Public passageways (consistent with Downtown Design Guidelines)
Lincoln Avenue between Hammondale and Mission Avenue	12 feet	Affordable Housing See NH-120 (Lincoln Avenue)
Marin Square	12 feet	Affordable housing
North San Rafael Town Center	24 feet	Affordable housing
Citywide where allowed by zoning.	12 feet	Hotel (1)

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN RAFAEL APPROVING AN AMENDMENT (ZO18-003) TO SAN RAFAEL MUNICIPAL CODE SECTION 14.16.190.A (HEIGHT BONUS) TO ESTABLISH A NEW 20-FOOT HEIGHT BONUS FOR THE 999 3RD STREET PROPERTY

WHEREAS, in 1992, the City of San Rafael adopted Section 14.16.190 of Title 14 (Zoning Ordinance) of the San Rafael Municipal Code (SRMC) via Ordinance No. 1625; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) and Whistlestop/Eden Housing submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18006) for the development of two 72-foot tall, four-story Research and Development buildings and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, the maximum height bonus for development in the Second/Third Mixed Use (2/3MUE) District is 12 feet based on the provision of the following public amenities;

- a. Affordable housing, consistent with SRMC Section 14.16.030 (Affordable housing);
- b. Public parking, providing it is consistent with the downtown design guidelines;
- c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
- d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe; and

WHEREAS, the project application for the total BioMarin development includes a request to amend SRMC Section 14.16.190 to increase the allowable maximum height bonus for the 118,099 sq. ft. BioMarin portion of the 999 3rd Street property from 12 feet to 20 feet based on the provision of one or more of the following public amenities:

- a. Affordable housing (minimum 60 units);
- b. Privately owned public plaza (5,000 sq. ft. or more in size);
- c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size);
- d. Pedestrian crossing safety improvements at adjacent intersections;
- e. Donation of funds for development of bike lanes; and

WHEREAS, the proposed request for additional height bonus requires an amendment to the General Plan (Exhibit 10 Height Bonus) and the City Council has approved that General Plan Amendment in conjunction with the review of the planning applications for the proposed project; and

WHEREAS, following the initial filing of the BioMarin/Whistlestop/Eden Housing planning applications, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included: a) the publication of a Notice of Preparation (NOP) in February 2019 for the purpose of scoping the topic areas of study for the preparation of an Environmental Impact Report; b) the preparation and publication of a Draft Environmental Impact Report (DEIR) in August 2019, which included a 45-day public review

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process and Planning Commission public hearing for commenting on the DEIR; and c) the preparation of a Final Environmental Impact Report (FEIR) by responding to all comments made and submitted on the DEIR; and

WHEREAS, the FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the maximum Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in a significant impacts, resulting from the change in height bonus provisions and would not be in potential conflict with San Rafael General Plan 2020 Land Use Element Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (*Planned Development*), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development; and

WHEREAS, the FEIR states that there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project, however, these are not related to the additional height of the buildings, but from the intensity of the use; and

WHEREAS, in considering the application to amend SRMC Section 14.16.190, the City Council has reviewed and considered the proposed project benefits against the unavoidable, adverse environmental effects from the impacts to the circulation network. By separate resolutions, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), the City Council has: 1) certified the FEIR; and 2) adopted CEQA Findings of Fact; and Statement of Overriding Considerations and approved an Exception to the Circulation Element Policy C-5 (*Level of Service*), and a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the Project, including this Zoning Ordinance Text Amendment (ZO18-003), along with a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006), accepting all oral and written public testimony and the written report of the Community Development Department Planning staff and closed said hearing on that date; and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-04, recommending to the City Council approval of the proposed amendment to SRMC Section 14.16.190; and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

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WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the proposed amendment to the Zoning Ordinance and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Resolutions, approved a General Plan Amendment (GPA18-001), Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006); and

WHEREAS, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 for adoption of the amendment to SRMC Section 14.16.190 set forth in Exhibit A, attached and incorporated herein by reference:

1. The proposed amendment would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 in that:
 - a. Although the proposed amendment conflicts with San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), which are adopted for the purpose of avoiding or mitigating a physical, environmental effect associated with traffic, the Planning Commission has determined, through adoption of a separate resolution of CEQA Findings of Fact and Statement of Findings of Overriding Consideration, that the benefits of the General Plan amendment outweigh the unavoidable, adverse environmental effects of the action. These findings conclude that the amendment would be consistent with and implement Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City Council may approve an action that would exceed the LOS standards set by Policy C-5, if the City Council finds that the benefits of the project to the community outweigh the traffic impacts. The findings in the resolution approving the General Plan Amendment are reaffirmed herein to support this action to amend the San Rafael Zoning Ordinance.
 - b. This Ordinance would be consistent with and implement San Rafael General Plan 2020 Neighborhood Element Program NH-40, which encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the San Rafael Corporate Center.

As drafted, overall, the amendment would be consistent with: a) Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high quality mixed-use development in the downtown designated areas; b) Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.

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- c. The public health, safety and general welfare are served by the adoption of the proposed amendment to San Rafael Municipal Code, which would modify the permitted maximum Height Bonus for the portion of the 999 3rd Street property to be included in the newly modified San Rafael Corporate Center PD District (PD-1936) in that:
 - d. This Ordinance would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.
 - e. This Ordinance would be consistent with and implement San Rafael General Plan Neighborhoods Policy NH-40 (*Second Third Mixed Use District*). Program NH-40, which is specific to the Second/Third Mixed Use District in the downtown area, as it encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC.
 - f. This Ordinance would permit a project that will provide desired public benefits and amenities, including: Affordable housing (minimum 60 units), a privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
 - g. This Ordinance would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of the proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.
2. The public health, safety and general welfare are served by adoption of the proposed Zoning Ordinance amendments, in that: a) an Environmental Impact Report has been prepared and certified, consistent with the California Environmental Quality Act (CEQA) and considered the proposed height bonus allowance, b) City department and regulatory agencies have been provided copies of plans and asked to provide input on the proposed project, including the amendment to the height bonus table;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the findings of Planning Commission Resolution 20-05, adopted January 28, 2020, recommending to the City Council adoption of this Ordinance, are true and correct.

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DIVISION 2. Amendment

The City Council of the City of San Rafael hereby approves and adopts the amendments to Section 14.16.190 of SRMC Title 14 (Zoning Ordinance), as presented in Exhibit A, attached hereto and incorporated herein by reference.

DIVISION 3. Publication; Effective Date

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of San Rafael on Monday, March 23, 2020 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

And will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of April 2020.

LINDSAY LARA, City Clerk

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Exhibit A

Amendment to San Rafael Municipal Code (SRMC) Title 14 – Zoning

The following section of the San Rafael Municipal Code (SRMC) Title 14 – Zoning is hereby amended to provide a new maximum height bonus of 20 feet for the 999 3rd Street property, including public amenities, as shown with the new (underlined) and modified (~~strike thru~~), as follows

Section 14.16.190.A – Height Bonus

- A. Downtown Height Bonuses. A height bonus may be granted by a use permit approved by the planning commission in the following downtown zoning districts. No more than one height bonus may be granted for a project.
1. In the Fourth Street retail core, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public courtyards, plazas and/or passageways, with the recommendation of the design review board that the public improvements are consistent with downtown design guidelines;
Public parking, providing it is not facing Fourth Street and it is consistent with the downtown design guidelines.
 2. In the Lindaro district, on lots south of Second Street and fronting Lindaro Street, a twenty-four-foot (24') height bonus for any of the following:
 - a. Park area adjacent to Mahon Creek, accessible to the public and maintained by the property owner;
 - b. Community facility, ten thousand (10,000) square feet or more in size. The facility must be available to the public for cultural and community events, and maintained and operated by the property owner.
 3. In the Second/Third mixed use east district, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
 - d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.
 4. On the 999 3rd Street Property, a twenty-foot (20') height bonus for any of the following:
 - a. Affordable housing (minimum 60 units)
 - b. Privately owned public plaza (5,000 sq. ft. or more in size)
 - c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
 - d. Pedestrian crossing safety improvements at adjacent intersections
 - e. Donation of funds for development of bike lanes;
 - 4.5. In the West End Village, a six-foot (6') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;

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- c. Public passageways, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe.

~~5.6.~~ In the Second/Third mixed use west district, on lots located on the north side of Third Street

and east of C Street, an eighteen-foot (18') height bonus for the following:

- a. Public parking, providing it is consistent with the downtown design guidelines.

****No changes to Sections B OR C OF SRMC 14.16.190****

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING AN AMENDED PLANNED DEVELOPMENT (PD) REZONING (ZC18-002) FOR THE SAN RAFAEL CORPORATE CENTER (SRCC) PLANNED DEVELOPMENT, INCLUDING THE RESCISSION OF THE PD 1936 DISTRICT, BY ADOPTION OF A NEW PD DISTRICT TO: 1) ALLOW EXPANSION OF THE CURRENT SRCC PD DISTRICT BY INCORPORATING THE 118,099 SQ. FT. OF THE 999 3RD STREET PROPERTY INTO THE BOUNDARIES; AND 2) UPDATE PD DISTRICT REGULATIONS TO INCORPORATE REVISED PARKING STANDARDS AND DEVELOPMENT REGULATIONS TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS (APN 011-265-01 AND 013-021-34, 35, 50, 51, 52, 53, 54 & 55,)

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael (the "SRCC Property"). The PD-1721 District established zoning and standards for development of the subject property with the San Rafael Corporate Center office park (SRCC), consisting of five buildings (totaling 406,000 square feet), two parking structures, surface parking, campus landscaping and publicly accessible park area along Mahon Creek; and

WHEREAS, in August 2000, the City Council adopted an amendment to the Planned Development (PD-1721) District to approve changes in the zoning district development standards in order to accommodate multi-tenant use of the SRCC. The amended Planned Development District was rezoned to PD-1754; and

WHEREAS, in October 2011, the City Council adopted an amendment to the Planned Development (PD-1754) District to expand the allowed land uses for the SRCC to include medical use and research and development and allowed the adopted parking standard of 3.3 parking spaces per 1,000 in the Master Plan (instead of 4.4 parking spaces per 1,000 sq. ft. for medical office). The amended Planned Development District was rezoned to PD-1901; and

WHEREAS, in October 2015, the City Council adopted an amendment to the Planned Development (PD-1901) District approving a 72,396 square foot, 54-foot tall, four-story office building at 755 Lindaro Street on the western parcel surface parking lot (Parcel 1) and a six story expansion of the previously approved and built parking structure at 788 Lincoln Ave. (Parcel 8) of the SRCC. The build-out of the approved campus totals 478,396 sq. ft. allowed by the PD 1936. The amended Planned Development District, PD-1936, is the zoning currently governing the SRCC Property; and

WHEREAS, between 2000 and today, the SRCC Property has been developed in various phases. The last office building (5th of 6 entitled) and the second parking garage approved were constructed in 2015-2016 under the terms of the Planned Development (PD-1901) District. The build-out of the approved campus totals 400,700 sq. ft., which is 5,300 sq. ft. less than the 406,000 sq. ft. allowed by the PD 1901; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small

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Subdivision (S18-001), and Sign Program Amendment (SP18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street (the "Project"); and

WHEREAS, the total development for BioMarin includes a request to incorporate 118,099 square feet of the 999 3rd Street property into the existing SRCC Property's PD District. The total site area of the proposed campus would be 795,021 sq. ft.; and

WHEREAS, the application to incorporate the portion of 999 3rd Street into the SRCC campus and development of the two new buildings at 999 3rd Street, create a blended FAR amongst all SRCC properties, and use a shared parking arrangement requires an Amendment to the PD-1936 District; and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural resources, Geology and Soils, Greenhouse Gas Emissions, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Recreation, Transportation, Tribal Cultural Services, Utilities, and Project Alternatives; and

WHEREAS, the DEIR was completed and a Notice of Completion (NOC) was filed and the DEIR made available and circulated for a 45-day public comment period, beginning on August 9, 2019 and closing on September 23, 2019; and

WHEREAS, on September 24, 2019, the Planning Commission held a duly noticed public hearing to accept comments on the DEIR and directed staff to prepare a Final Environmental Impact Report (FEIR); and

WHEREAS, the Final EIR was prepared and released for public review on January 10, 2020; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the Project, including this Planned Development Rezoning (ZC18-002), along with a General Plan Amendment (GPA18-001), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006), accepting all oral and written public testimony and the written report of the Community Development Department Planning staff; and

WHEREAS, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and recommended to the City Council, by Resolution No. 20-01, certification of the Final EIR in that it complies with all requirements of CEQA; and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-05, recommending to the City Council approval of the proposed Planned Development Rezoning; and

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WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the application to amend the PD-1936 Zoning District and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR for the Project, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, as required by San Rafael Municipal Code (SRMC) Sections 14.07.090 and 14.27.060, in support of amending the Zoning Ordinance to rescind the existing Planned Development (PD) District (PD-1936) and Second/Third Mixed Use East (2/3 MUE) District, as shown on the map contained in Exhibit "B" and further described in Exhibit "C," and to establish a new PD District as outlined in Exhibit "A" (San Rafael Corporate Center Master Plan), which exhibits are attached and incorporated herein by reference, the City Council makes the following findings:

1. As proposed and conditioned, approval of this PD Amendment to expand the allowable uses to include an additional 207,000 square feet of laboratory and general office uses in two 72-foot tall, four-story buildings, on 118,099 square feet of 999 3rd Street, would be consistent with the applicable goals and policies of the San Rafael General Plan 2020 and in conformance with the provisions of the PD-1936 District, as amended. Specifically:
 - a. As proposed, the laboratory and office land uses are consistent with General Plan Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (i), LU-9 (*Intensity of Nonresidential Development*), LU-12 (*Building Heights*), LU-14 (*Land Use Compatibility*) in that these uses would be: allowable under the adopted Lindero Office land use designation; compatible with the current land uses allowed under the PD-1936 District adopted for this site; and compatible with existing land uses found in the surrounding area. In addition, by separate action, the City Council has approved a height bonus and an accompanying General Plan amendment.
 - b. Although the proposed Project will conflict with Circulation Element Policies C-5 (*Traffic Level of Service Standards*), the City Council has adopted by separate Resolution a waiver to the LOS standards for this Project consistent with C-5e, based on a finding that the benefits of the Project outweigh the impacts.
 - c. The Project would be consistent with C-7 (*Circulation Improvements Funding*) and C-12 (*Transportation Demand Management*) in that the office use component would be subject to the adopted citywide traffic mitigation fees which would be used to fund long-term transportation improvements; and the Project would not change the current City requirement and obligation of the office park owner to implement transportation demand measures such as encouraging tenants, through incentives, to carpool and use public transit.

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- d. As proposed, the laboratory and office land uses would be consistent with General Plan Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*) in that they would: facilitate additional employment and future economic success in the Downtown area; promote build-out of the San Rafael Corporate Center project by allowing a land use that is appropriate and marketable; allow compatible land uses that would fill current and long-term projected vacancies in general and administrative office space; and promote a reasonable reduction in required parking supported by the Project's proximity to Downtown, the Bettini Transit Center and the SMART rail stations.
 - e. As proposed, the laboratory and office land uses would be consistent with the General Plan Community Design Element Policy CD-21 (*Parking lot landscaping*) in that: the uses proposed will have an approved landscaping plan that will provide shade cover and adequate screening of vehicles within parking lot areas.
 - f. As proposed, the laboratory and office land uses would be consistent with the General Plan Sustainability Element Policies SU-1 (*Land Use*) and SU-2 (*Promote Alternative Transportation*), and the adopted Climate Change Action Plan in that: the uses are proposed within an existing and approved development office park that is close to public transit and Downtown; the project proposes a reduction in the amount of required parking for the medical use component, thus reducing thermal gain and shared parking; and the additional mix in land uses would facilitate the implementation of transportation demand measures such as encouraging tenants, through incentives, to carpool and use public transit.
 - g. The approval of additional laboratory and office land uses would be consistent with Our Vision of Downtown San Rafael in that it would further promote new businesses and employment in the Downtown area.
 - h. The approval of laboratory and office land uses would be consistent with the PD-District, as amended by this PD rezoning.
2. The proposed additional laboratory and office uses would not be detrimental to the health, safety or general welfare of the residents or community in that:
 - a. These uses would be compatible with the currently approved and operating administrative, laboratory, and general office uses. These uses would be compatible with surrounding and immediate land uses and development.
 - b. These uses would be consistent and not in conflict with the deed restriction recorded for the San Rafael Corporate Center, which permits commercial and office land uses but prohibits use and development with residential and day care land uses. No residential uses would be included on the 118,099 sq. ft. land area addition to the San Rafael Corporate Center.
 - c. The addition of these land uses would realize the development of a vacant downtown parcel that is contemplated for laboratory and general office uses. The Corporate Center is adequately served by local facilities and utilities and the proposed land uses would be an extension of the ongoing operations.
 3. The proposed addition of laboratory and general office land uses will result in a reduction in parking ratio requirements currently adopted in the San Rafael Corporate Center Master Plan (3.3 spaces/1,000 square feet). The initial approval of the San Rafael Corporate Center found that this development has been designed to adequately address the automobile, bicycle and pedestrian traffic systems. Consistent with SRMC Section

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14.18.040B, the Project has been studied for parking needs for laboratory, office, and amenities uses at this location finding that the use of the proposed parking standard for the office park is reasonable, appropriate and adequate in that:

- a. The proposed parking standard of 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for office, 1.5 parking spaces per 1,000 square feet of GSF for laboratory/research and development, and 1.0 spaces per 1,000 GSF of amenities is equitable and logical based on the parking study demand and usage on the existing BioMarin campus and studies and usage for other biotech campuses around the Bay Area as documented in the parking demand study for the proposed project.
 - b. The approvals and agreements established for the San Rafael Corporate Center will require a parking contingency plan should the office park be used for multi-tenants or converted from laboratory land uses. The project owner will be required to demonstrate available parking upon sale of the property or conversion from BioMarin (a single tenant) to multi-tenant uses.
 - c. The San Rafael Corporate Center is in immediate proximity to the Bettini Transit Center (major transit hub for Marin County) and the Downtown San Rafael SMART rail station. The immediate access to mass transit reduces parking demand, which appropriately supports lower parking standards.
4. The proposed uses are found to be appropriate in area, location and overall planning for the purpose intended, and the design and development standards create a non-residential environment of sustained desirability and stability given that the Project is located on a centralized, downtown, vacant, infill-parcel contemplated for development in the General Plan along a major arterial road. The proposed uses are consistent with the surrounding development and the existing BioMarin campus at the San Rafael Corporate Center. The proposed Project uses high quality design materials and has been reviewed by the Design Review Board for recommendation of approval. The proposed Project will allow for growth of a major employer in the downtown area.
 5. The applicant demonstrates that public facilities are provided to serve the anticipated population as documented in the Final EIR for the proposed Project and based on review by City departments for Code consistency regarding sewer, water, and other utilities. The proposed project is located in the downtown area of San Rafael where existing infrastructure is already in place to serve the Project site.
 6. The development is improved by deviations from typical zoning ordinance property development and parking standards given that it functions as a campus for a large biotechnology company and promotes high quality design, including clustering, landscaping, and parking sharing across the campus, and allows for flexibility of height and FAR standards.
 7. The auto, bicycle, and pedestrian traffic system is adequately designed for circulation needs and public safety and emergency vehicle access is provided to serve the proposed development based on review by City departments including Police and Fire. The proposed access points have been reviewed by City departments for Code consistency. Improvements to the bike and pedestrian networks in the surrounding area are included as part of the Project. Although the Project deviates from Level of Service standards as documented by the Final EIR for the proposal, the project has been approved by separate actions, including a Exception to LOS standards and a

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statement of overriding considerations for circulation impacts which remain significant and unavoidable impacts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Amendment of Map.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from PD-1936 (Planned Development District 1936) and Second/Third Mixed Use East (2/3MUE) District to PD (Planned Development Ordinance No. _____ District. Said property so reclassified is located at 999 3rd Street (portion of), 750, 770, 775 and 790 Lindaro Street and 781, 788 and 791 Lincoln Avenue, designated as County Assessor's Parcel No's (APN): 011-265-01 (portion of) and 013-021-34, -35, -50, -51, -52, -53, -54 & -55, as shown on the map attached as Exhibit "B" and described in Exhibit "C", which are attached and incorporated by reference.

DIVISION 2. Conditions.

Any development of this property shall be subject to the conditions outlined Exhibit "A", the *San Rafael Corporate Center Master Plan*, which is attached hereto and made a part hereof.

DIVISION 3. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

DIVISION 4. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

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The foregoing Ordinance No. ____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 23rd day of March 2020 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the City Council to be held on the 6th day of April 2020.

LINDSAY LARA, City Clerk

- Exhibit A: Development Standards
- Exhibit B: PD Map
- Exhibit C: Property Description (Meets & Bounds)

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Exhibit A

San Rafael Corporate Center Master Plan

(Formerly Ordinance 1721, 1754, 1901, and 1936 Fair, Isaac Office Park Master Plan)
(ZC18-002)

INTENT

The San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus) Master Plan is based on the plans (Development Plan) approved for the Environmental and Design Review Permit (ED97-24, ED14-097 and ED18-087), Master Use Permit (UP14-052 and UP18-034) and Tentative Maps (TS97-1 and S18-001), approved by the City Council on February 17, 1998, August 7, 2000, December 5, 2011, October 19, 2015, and March 16, 2020.

LAND USES

This office park permits a maximum of 715,500 sq. ft. of building area within 8 buildings approved for the following uses: administrative office, general office, research/development uses, and accessory uses and parking.

1. Administrative and General Office Use. Administrative and general office uses as defined by San Rafael Municipal Code Title 19 (Zoning).
2. Research and Development Use. Research and development use is defined as a use engaged in scientific, medical or technological research with limited product testing and production. This use excludes full production of industrial type manufacturing and generally operates similar to and characteristic of low-intensity, general office use. Medical laboratories established for research (as opposed to labs providing testing services for patients/visitors) would be defined as a research and development use.
3. Uses determined to be incidental or accessory to the above-listed land uses shall be permitted, as determined to be appropriate by the Community Development Director.

In addition to the above buildings, the office park permits accessory parking structures to support the proposed development. Requirements and conditions for all uses in the office park shall be consistent with Master Use Permit UP14-052 and UP19-034. Residential and day care land uses are prohibited by recorded deed restriction.

DEVELOPMENT STANDARDS

The following standards shall apply to all development of the San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus):

1. Maximum floor area ratio:	0.90 blended maximum floor area ratio, per Development Plan approved under the office park Master Use Permit (UP18-034) and Environmental and Design Review Permit (ED18-087).
2. Building Height:	<u>Proposed buildings</u> - Maximum 54 feet, plus an 20-foot building height bonus for the two new buildings at 999 3 rd St, based on

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	<p>provision of public benefit as addressed below..</p> <p><u>Existing Buildings</u> - Maximum 54 feet plus a 24 foot height bonus previously granted by City for existing buildings within the campus (750 Lindaro St, 770 Lindaro St, 790 Lindaro St and 791 Lincoln Ave on the Central Parcel). Master Use Permit (UP14-052) (applicable to the Original SRC Property in the Lindaro Office land use district) and Environmental and Design Review Permit (ED14-097), as shown in General Plan Exhibit 10. The building height bonuses requires public benefit provisions as addressed below.</p>
<p>3. Landscaping:</p>	<p>Landscaping shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permits (ED14-097 and ED18-087).</p>
<p>4. On-site Parking:</p>	<ul style="list-style-type: none"> • 3.0 parking spaces per 1,000 gross square feet of office area, • 1.5 spaces per 1,000 gross square feet of research/development area, and • 1.0 spaces per 1,000 gross square feet of amenity area. <p>Compliance with and monitoring of on-site parking shall be enforced through the conditions of the approval required by the office park Master Use Permit (UP14-097 and UP18-034).</p> <p><u>Parking Contingency:</u> BioMarin will incorporate the following provisions into an enforceable deed restriction for the entire project site, Western parcels, Central parcels, Eastern Parcel and northern Parcel (except the portion transferred to Whistlestop/Eden Housing):</p> <ol style="list-style-type: none"> a. Changes in tenancy or use (type of use of change to multiple tenants, rather than single tenant), expansion of use(s), or expansion of floor area that create a parking demand that is more than five (5) percent greater than the number of required parking spaces approved under the current Planned Development (PD) District shall provide additional automobile parking, bicycle parking, and loading space as required by this Planned Development (PD) District and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand. b. Existing parking shall be maintained, but may be replaced in a reconstructed parking facility. c. A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with Planned Development (PD) District).

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5. Building Coverage	Building coverage shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permit (ED14-097 and ED18-087).
6. Public Benefits:	<p>The existing SRCC development received height bonus for four (4) of the buildings noted above in exchange for certain public benefits, including provision of a privately maintained park with public access adjacent to Mahon Creek and conference/meeting room available to the public. (UP14-052)</p> <p>In addition for the new development of the three buildings (755 Lindaro, and two buildings at 999 3rd St), subdivision and transfer of 15,000 sq ft of land to Whistlestop at the 999 3rd St site, a 6,000 sq ft “front porch” plaza open to the public and 3,000 sq ft retail space are to be provided in the 999 3rd St building as required by the Development agreement set forth in the office park Use Permit (UP18-034).</p> <p>Other public benefits required for the Development Agreement, 18 ft height bonus for the two buildings at 999 3rd St, Statement of Overriding Considerations to CEQA Impacts are required as described in DA19-001</p>
7. Development Phasing	The three unbuilt buildings and expansion of the Lincoln Ave garage are to be phased within the 10-year term of the Development Agreement (DA). See DA19-001 and UP18-034.
8. Park Facility	The office park development shall provide a privately maintained park with public access adjacent to Mahon Creek as set forth in the office park Use Permit (UP14-052 and UP18-034)
9. Minor Additions/ Accessory Structures	Minor accessory structures or minor additions to the building that are determined to be accessory to the primary use and minimal in impact as determined by the Community Development Director, may be considered through review and approval of a Environmental and Design Review Permit, without an amendment to the PD District.

DESIGN STANDARDS

All buildings, structures, site improvements, landscaping, parking and exterior lighting shall be consistent with the Development Plan and conditions of approval for the office park Environmental and Design Review Permit.

- ED14-097 and ED17-057 shall govern the new building design at 755 Lindaro St and the expansion to the Lincoln Ave parking garage; and
- ED18-087 shall govern the design of the two new buildings at 999 3rd St.

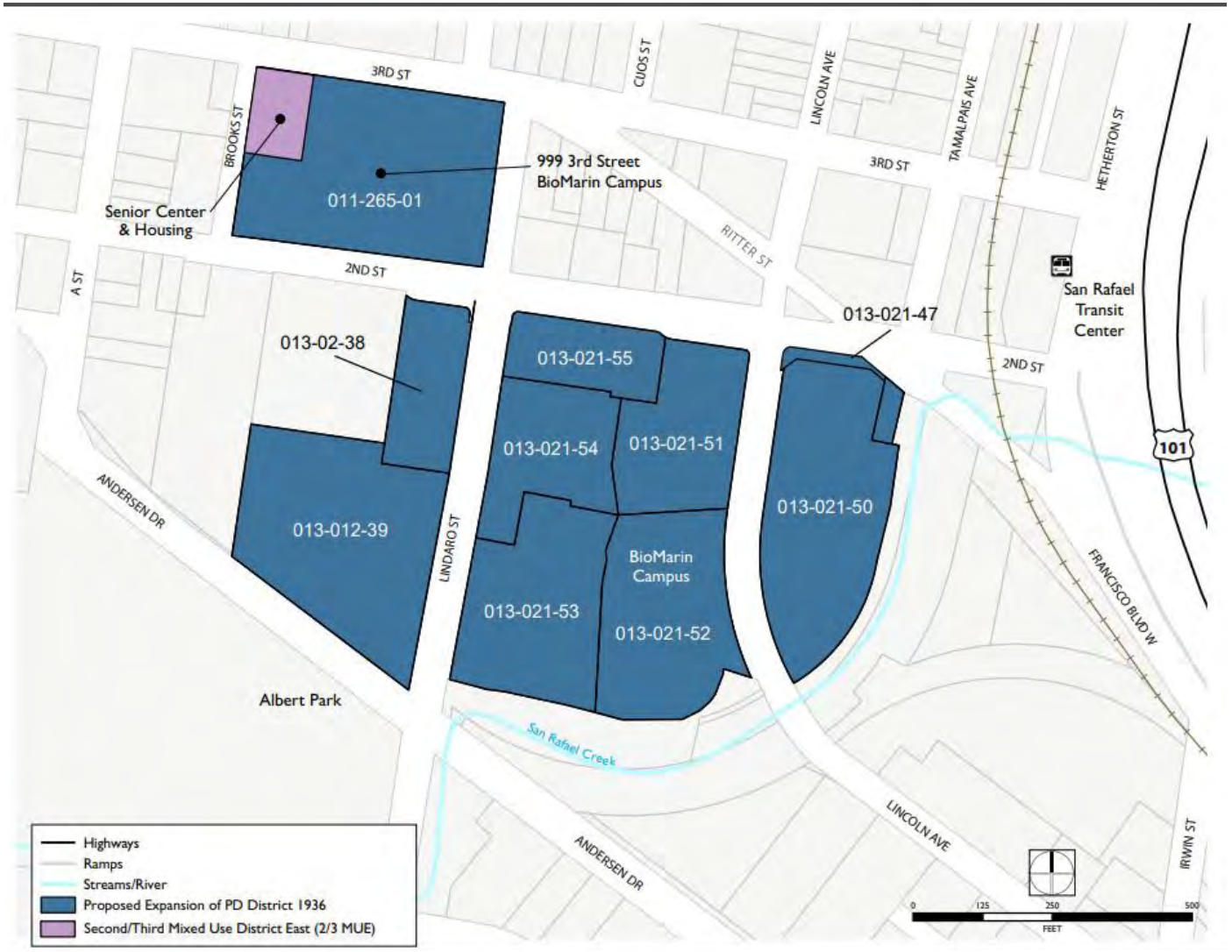
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TERM

This PD District and project approvals include a Development Agreement, as authorized by the California Government Code Section 65864 et seq., therefore this PD shall be approved for the term as defined by the Development Agreement, as long as there is compliance with all requirements and obligations of the Development Agreement.

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Exhibit B PD Boundary Map



Attachment 5

Exhibit C

Legal Description

"Western Parcel" (APN 013-012-38 AND 39)

Reference PARCEL TWO

A portion of that certain parcel of land described in the deed from F. M. Neely and Sara Neely, his wife, to PG&E recorded December 12, 1922 in Volume 11 of Official Records at page 209, Marin County Records and being more particularly described as follows:

Beginning at the intersection of the southerly boundary line of the city street known as Second Street, with the westerly boundary line of the city street known as Lindaro Street and running thence along said westerly boundary:

- (1) south 06°45'00" west 299.22 feet; thence
 - (2) south 08°53 '00" west 405.54 feet
- to a point in the northerly boundary line of the Northwestern Pacific Railroad Right of Way; thence along said northerly boundary line
- (3) north 54°38'00" west 396.88 feet; thence leaving said northerly boundary line
 - (4) north 06°38'05" east 238.95 feet; thence
 - (5) south 83°33'00" east 241.53 feet to a point herein for convenience called Point "A"; thence
 - (6) north 06°38'05" east 273.54 feet to a point in the southerly boundary line of said Second Street, thence running along said southerly boundary line.
 - (7) south 83°33'00" east 123.00 feet, more or less, to the point of beginning.

The bearings used are based on the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records.

Reserving therefrom the following easements over and across those certain portions of the Parcel Two:

1. The "Exclusive Gas Meter Easement";
2. The "Nonexclusive Gas Meter Easement";
3. The "West Parcel Slurry Wall Easement";
4. The "Area SA Extraction Trench Easement";
5. The "Area SB Extraction Trench Easement"; and
6. The "West Parcel Electric Facilities Easement"; which are more particularly described as follows:

Exclusive Gas Meter Easement

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Beginning at a point in the easterly boundary line of the parcel of land hereinbefore described and designated PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of said PARCEL TWO bears south 08°53'00" west 329.67 feet; thence leaving said easterly boundary line:

- (1) north 81°07'00" west 30.00 feet; thence
- (2) north 08°53'00" east 30.00 feet; thence
- (3) south 81°07'00" east 30.00 feet to a point in said easterly boundary; thence along said easterly boundary line
- (4) south 08°53'00" west 30.00 feet to the point of beginning.

Nonexclusive Gas Meter Easement

Beginning at the southwest corner of the parcel of land hereinbefore described and designated Exclusive Gas Meter Easement and running thence

- (1) north 81°07'00" west 20.00 feet; thence
 - (2) north 08°53 '00" east 50.00 feet; thence
 - (3) south 81 °07'00" east 50.00 feet; more or less,
- to a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street; thence along said easterly boundary line.

- (4) south 08°53 '00" west 20.00 feet
- to the northeast corner of said Exclusive Gas Meter Easement; thence along the northerly boundary line of said Exclusive Gas Meter Easement
- (5) north 81°07'00" west 30.00 feet
- to the northwest corner of said Exclusive Gas Meter Easement; thence along the westerly boundary line of said Exclusive Gas Meter Easement
- (6) south 08°53 '00" west 30.00 feet to the point of beginning.

West Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the general northerly boundary line of said PARCEL TWO, southerly to the southwesterly boundary line of said PARCEL TWO and lying 10 feet on each side of the line described as follows:

Beginning at a point in the general northerly boundary line of said PARCEL TWO, from which said Point "A" bears south 83°33'00" east 216.93 feet; thence leaving said general northerly boundary line

- (1) south 06°29'15" west 206.97 feet; thence
- (2) on a tangent curve to the left with a radius of 100.00 feet and tangent at the northerly terminus thereof to the preceding course, an arc distance of 5-8.23 feet, more or less, to a point in the southwesterly boundary line of said PARCEL TWO.

Area SA Extraction Trench Easement

Beginning at said Point "A" and running thence along the general westerly boundary line of said PARCEL TWO

- (1) north 06°38'05" east 273.54 feet

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to a point in the northerly boundary line of said PARCEL TWO, being also the southerly boundary line of said Second Street, thence along said northerly boundary line

(2) south 83°33'00" east 19.63 feet; thence leaving said northerly boundary line

(3) south 05°41 '35" west 457.82 feet; thence

(4) north 84°18'25" west 27.16 feet; more or less,

to a point in the southerly prolongation of the general westerly boundary line of said PARCEL TWO; thence

(7) north 06°38'05" east 184.60 feet, more or less, to the point of beginning. Area

5B Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending westerly from the easterly boundary of said PARCEL TWO, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of PARCEL TWO bears south 08°53 '00" west 157.56 feet; thence leaving said easterly boundary line

(1) north 80°40'14" west 135.97 feet to a point within the boundary lines of PARCEL TWO.

West Parcel Electric Facilities Easement and the Substation Access Easement

That portion of said PARCEL TWO lying westerly and southwesterly of a line described as follows:

Beginning at said Point "A" and running thence along the southerly prolongation of the general westerly boundary line of said PARCEL TWO

(1) south 06°38'05" west 269.32 feet; thence

(2) south 54°38'00" east 125.95 feet, more or less,

to a point in the easterly boundary line of said PARCEL TWO.

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**"CENTRAL PARCEL"
(APN 013-021-51, 52, 53, 54 AND 55)**

Reference: PARCEL ONE

The 8.280 acre parcel of land as shown upon the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records. Reserving therefrom the following easements over and across those certain portions of the Parcel One:

- A. The "Central Parcel Slurry Wall Easement";
- B. The "Central Parcel Extraction Trench Easement"; and
- C. The "Central Parcel Electric Facilities

Easement"; which are more particularly described as follows:

Central Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the westerly boundary line of the parcel of land hereinbefore described and designated PARCEL ONE easterly and northerly to the northerly boundary line of said PARCEL ONE and lying 10 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which a rebar and cap stamped "LS 4545", herein for convenience called Point "B", accepted as marking the northeasterly terminus of a course in the westerly boundary line of the 8.280 acre parcel of land as shown upon said Record of Survey filed for record May 10, 1985, which course as shown upon said map has a bearing of S8°53' wand a length of 421.24 feet, bears north 08°53 '00" east 364.35 feet; thence leaving said westerly boundary line•

- (1) south 76°44'52" east 70.89 feet; thence
- (2) south 84°17'14" east 32.74 feet; thence
- (3) south 79°31'32" east 111.67 feet; thence
- (4) south 76°52'26" east 104.19 feet; thence
- (5) north 87°55'06" east 104.33 feet; thence
- (6) north 62°01'36" east 31.14 feet; thence
- (7) north 46°27'46" east 23.10 feet; thence
- (8) north 33°08'08" east 12.71 feet; thence
- (9) north 19°37'58" east 36.67 feet; thence
- (10) north 00°14'58" east 46.69 feet; thence
- (11) north 10°10'31" west 41.35 feet; thence
- (12) north 06°57'47" west 97.03 feet; thence
- (13) north 04°56'07" west 42.24 feet; thence
- (14) north 03°58'51" east 124.15 feet; thence
- (15) north 09°00'19" east 35.36 feet; thence
- (16) north 08°34'17" east 106.14 feet; thence
- (17) north 07°26'47" east 107.63 feet, more or less,

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to a point in the northerly boundary line of said PARCEL ONE.

Central Parcel Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending easterly from the westerly boundary line of said PARCEL ONE, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which Point "B" bears north 08°53 '00" east 249.70 feet; thence leaving said westerly boundary line.

(1)-south 80°42'05" east 14.39 feet; thence

(2) south 79°43'14" east 64.83 feet

to a point within the boundary lines of PARCEL ONE.

Central Parcel Electric Facilities Easement

That portion of said PARCEL ONE, lying easterly and southerly of the general easterly boundary line of the strip of land hereinbefore described and designated Central Parcel Slurry Wall Easement.

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**"EASTERN
PARCEL" (APN
013-021-50)**

All that certain real property situated in the City of San Rafael, County of Marin, State of California, described as follows:

PARCEL ONE:

BEGINNING at a point in the Southerly line of Second Street distant 496.5 feet Easterly from the point of intersection of the said Southerly line of Second Street with the Easterly line of Lindaro Street; thence running Easterly along said line of Second Street

140.1 feet to the Southerly line of the San Rafael and San Quentin Turnpike or Toll Road, now known as Francisco Boulevard; thence Southerly and Easterly along said line of said Turnpike 90 feet; thence leaving said Turnpike and running South 14°59' West 153.5 feet; thence North 38°41' West 278.3 feet to the point of beginning.

EXCEPTING THEREFROM all that portion there of lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL TWO:

BEGINNING at the point of intersection of the Southerly line of Second Street, with the Easterly line of Petaluma Avenue (now known as Lincoln Avenue); thence Easterly along the Southerly line of Second Street 6/10 of a foot to the most Westerly corner of that certain lot or parcel of land which was conveyed by John W. Mackay and James L. Flood to the City of San Rafael, by Deed dated June 5, 1893 and recorded in Book 26 of Deeds at Page 238, Marin County Records; thence along the Southwesterly line of said lot, South 38°04'¹ East 278.3 feet to the most Southerly corner of said lot; thence along the Easterly line of said lot, North 14°59'¹ East 153.6 feet to the Southerly line of the Toll Road; thence Easterly along the Southerly line of the Toll Road 6.6 feet to the Westerly bank of the said tidal canal South 11°043'¹ West 289 feet; thence continuing along said Westerly bank on the arc of a circle having a radius of 441.7 feet, 462.3 feet to the said Easterly line of Petaluma Avenue; thence Northerly along the said Easterly line of Petaluma Avenue 702.8 feet to the point of beginning.

EXCEPTING THEREFROM all that portion thereof as contained in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 608, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof described as follows: A STRIP OF LAND, 10 feet in width, lying Southeasterly of and contiguous to the Southeasterly boundary of that certain parcel of land described in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded

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October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 508, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL THREE

AN EASEMENT for sanitary sewer purposes described as follows:

A STRIP of land of the uniform width of 20 feet, the centerline of which is described as follows:

COMMENCEMENT at a point on the Easterly line of Lindaro Street at the Intersection of two courses bearing South 7° 15' West and South 8° 15' West, as said courses are shown upon that map entitled, "Map of a Portion of Lindaro Street, City of San Rafael, Marin County, California", filed for record March 2, 1937 in Volume 2 of Official Surveys, at Page 83, Marin County Records; thence North 8° 53' East 32.92 feet to the true point of beginning; thence Southeasterly perpendicular to the aforementioned Easterly line, 315.00 feet; thence along a tangent curve to the left, through a central angle of 510 00' 00" having a radius of 215.00 feet, an arc distance of 191.37 feet; thence North 47° 53' East 70 feet, more or less, to the termination of the easement and also the Westerly line of Lincoln Avenue, described as an arc 194.78 feet long in a Deed from the City of San Rafael to the Pacific Gas and Electric Company, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, Marin County Records.

PARCEL FOUR

That certain real property situate in the City of San Rafael, County of Marin, State of California, more particularly described as follows:

COMMENCING at the intersection of the southerly line of Second Street with the easterly line of Lincoln Avenue, said point being located South 50°10'00" East 0.32 feet from a lead plug and tag RE5561 set in a concrete sidewalk, and as shown on the Record of Survey Map filed May 10, 1985 in Book 20 of Surveys at Page 47,- Marin County Records;

thence along said southerly line of Second Street South 83°33'00" East 140.70 feet to the southwesterly line of Francisco Boulevard;

thence leaving the southerly line of Second Street and along said southwesterly line of Francisco Boulevard, South 51°37'29" East 98.68 feet to the westerly line of Parcel 4, conveyed to the San Rafael Redevelopment Agency by deed recorded October 30, 1997, in Document No. 97-062019;

thence along said westerly line South 11°32'07" West 95.76 feet to the True Point of Beginning;

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thence continuing along said westerly line South 11°32'07" West 189.48 feet; thence on a curve to the right tangent to the preceding course having a radius of 441.70 feet through a central angle of 36°01'12", an arc length of 277.68 feet to the easterly line of aforementioned Lincoln Avenue;

thence along said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 60°08'08" East 473 feet, through a central angle of 01°17'20", an arc length of 10.64 feet;

thence leaving said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 31°36'30" West, a distance of 315.00 feet, through a central angle of 50°24'27", an arc length of 277.33 feet;

thence North 12°06'01" East 102.01 feet;

thence North 06°19'27" East 109.66 feet;

thence leaving the westerly line of said tidal slough North 80°50'15" West 13.96 feet to the Point of Beginning.

Said Parcel contains an area of 0.24 acres, more or less.

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"NORTHERN PARCEL" (Portion of APN 011-265-01)

PARCEL 1 (2402-06-0520)

The parcel of land conveyed by Allan Lee and others to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated March 22, 1888 and recorded in Book 7 of Deeds at page 532, Marin County Records, and therein described as follows:

“BEGINNING at the Northwesterly corner of lot number One (1) in block number forty one (41) as the same is marked shown and numbered on the Plat of the Town Site of the Town of San Rafael made by Hiram Austin and filed in the office of the County Recorder of said County of Marin on the 14th day of October 1873 running thence easterly along said southerly line of Third Street as shown on said plat two hundred (200) feet, thence at right angles southerly One hundred and fifty (150) feet, thence at right angles Westerly parallel with the southerly line of Third Street two hundred (200) feet to the easterly line of a Street marked on said plat, thence Northerly along the Easterly line of said last mentioned street one hundred and fifty (150) feet to the point of beginning.”

PARCEL 2 (2402-06-0526)

The parcel of land conveyed by Will Brooks to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated November 10, 1893 and recorded in Book 28 of Deeds at page 88, Marin County Records, and therein described as follows:

“COMMENCING at a point on the South side of Third Street distant one hundred and ninety five 4/12 feet Easterly from A Street thence running South at right angles to Third Street three hundred and eight feet to Second Street one hundred and ninety five 4/12 feet east from A Street thence running Easterly along Second Street one hundred and Sixty eight feet thence North by West to a point distant three hundred and ten 4/12 feet from A Street Easterly and one hundred and eighty one feet South from Third Street thence North in a line parallel to A Street one hundred and eighty one feet to Third Street thence West along Third Street one hundred and fifteen feet to the place of beginning.”

EXCEPTING THEREFROM that portion thereof described in the deed from Pacific Gas and Electric Company to the City of San Rafael recorded April 10, 1912 in Book 142 of Deeds at page 439, Marin County Records.

PARCEL 3 (2402-06-0525)

The parcel of land conveyed by Edward B. Mahon to the San Rafael Gas and Electric light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated December 6, 1899 and recorded in Book 58 of Deeds at page 210, Marin County Records, and therein described as follows:

“BEGINNING at the South West corner of the lot occupied by the San Rafael Gas & Electric Light Company’s gas works said point being on the East line of Court Street and distant 150 feet South

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from the South line of Third Street thence from said beginning point, running S. 6 3/4° W. along the East line of Court Street (150) One hundred and fifty feet, thence Easterly, parallel with Third Street (300) Three hundred feet, to the West line of a Street called Lindaro Street, thence North along the West line of Lindaro Street (150) One hundred & fifty feet to the North boundary line of Lot 2 in Block 41, as per Map of Town site of the Town of San Rafael filed Oct. 14th 1873 in the County Recorder's Office of said Marin County, running thence Westerly along said boundary line (300) three hundred feet to the point of beginning."

PARCEL 4 (2402-06-0523)

The parcel of land conveyed by the City of San Rafael to Pacific Gas and Electric Company by deed dated November 22, 1910 and recorded in Book 132 of Deeds at page 279, Marin County Records, and therein described as follows:

"Commencing at a point formed by the intersection of the southerly line of Third Street with the westerly line of Court Street, and running thence easterly and along said line of Third Street sixty-six (66) feet, more or less, to the easterly line of Court Street, thence at a right angle southerly and along said easterly line of Court Street three hundred and ten (310) feet, more or less, to the northerly line of Second Street, thence at a right angle westerly and along said last mentioned line sixty-six (66) feet, more or less, to the westerly line of Court Street, and thence northerly and along said last mentioned line three hundred and ten (310) feet, more or less, to the southerly line of Third Street and the point of commencement."

PARCEL 5 (2402-06-0524)

The parcel of land conveyed by Peter Williams and Emma Williams to Pacific Gas and Electric Company by deed dated June 17, 1911 and recorded in Book 136 of Deeds at page 174, Marin County Records, and therein described as follows:

"Commencing at the intersection of the south line of Third Street with the west line of Lindaro Street and running thence westerly along the south line of Third Street one hundred feet, thence southerly parallel with Lindaro Street one hundred and fifty feet; thence at right angles easterly one hundred feet to the west line of Lindaro Street, thence northerly along the said west line of Lindaro Street one hundred and fifty feet to the place of commencement."

Attachment 6

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING A DEVELOPMENT AGREEMENT (DA19-001) FOR THE SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791 LINCOLN AVENUE AND 999 3rd STREET) TO EXPAND THE ALLOWABLE DEVELOPMENT AND OVERALL LAND AREA TO INCLUDE TWO RESEARCH AND DEVELOPMENT BUILDINGS TOTALING 207,000 SQUARE FEET AND TO DEFINE THE AGREEMENT TERMS
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development Zoning District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael. Concurrent with this action, the City Council adopted Ordinance No. 1722 approving a Development Agreement with Fair, Isaac and Company, Inc., the initial project developer, who was planning to be the single tenant for the office park. The Development Agreement included specific terms, conditions and requirements agreed to by both the City and Fair, Isaac for a 10-year build-out of the "San Rafael Corporate Center" office park; and

WHEREAS, in August 2000, the City Council adopted Ordinance No. 1755, approving the first amendment to the Development Agreement to approve changes in the property ownership (Equity Office) and to the development standards in order to accommodate multi-tenant use of the San Rafael Corporate Center. Since 2000, the office park ownership has changed and subsequent amendments to the Development Agreement were adopted to reflect the ownership changes; and

WHEREAS, in December 2011, the City Council adopted Ordinance No. 1902, approving a second amendment to the Development Agreement for the San Rafael Corporate Center to expand the allowable land uses to include medical office and research and development; and

WHEREAS, since 2000, nearly all of the approved San Rafael Corporate Center office park campus has been developed and occupied by administrative and professional office and R& D businesses. To date, five of the six office approved office/R& D buildings and two parking structures have been built, along with surface parking, campus landscaping and the publicly accessible park area. and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Amendment (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Development Agreement (DA19-001), Small Subdivision (S18-001), and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft., and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street (the "Project"); and

WHEREAS, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3rd Street property to be incorporated into the existing San Rafael

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Corporate Center (SRCC) PD District. The total site area of the amended SRCC campus would be 795,021 sq. ft.; and

WHEREAS, the project application for BioMarin includes a request to modify the existing Floor Area Ratio (FAR) for the 118,099 square feet of the 999 3rd Street property from 1.50 to 0.90 and a request to modify the existing FAR for the SRCC from 0.75 to 0.90. The total FAR of 0.90 for the newly amended SRCC would allow the two proposed buildings, totaling 207,000 sq. ft., of the BioMarin project to be included in the total allowed campus development of 715,519 sq. ft.; and

WHEREAS, a Development Agreement has been requested by BioMarin to establish a 10-year time frame for the approvals and to freeze the development application and impact fees for a period of 10 years for the BioMarin component of the Project; and BioMarin has offered the City a series of public benefits as consideration for the Development Agreement; and

WHEREAS, a Development Agreement has been drafted to incorporate the proposed terms and obligations for both parties; and

WHEREAS, the proposed Development Agreement has been processed in accordance with the requirements set forth in City Council Resolution No. 6089, which establishes the City's rules and regulations for the consideration of Development Agreements; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the environmental documents and applications and for the Project, including this Development Agreement, accepting all oral and written public testimony and the written report of the Community Development Department Planning staff. The Planning Commission considered the responses to comments contained in the FEIR and recommended to the City Council, by Resolution No. 20-01, certification of the Final EIR in that it complies with all requirements of CEQA. The Planning Commission also recommended to the City Council, by Resolution No. 20-02, adoption of Statement of Overriding Considerations and Approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-06, recommending to the City Council approval of the proposed Development Agreement, with one modification, to not eliminate a condition of approval, previously imposed on the 755 Lindaro/Lincoln Garage expansion, requiring the creation of a pedestrian connection to SMART on the backside of the Lincoln Avenue garage, along the west side of Mahon Creek; and

WHEREAS, on January 28, 2020, the Planning Commission also adopted the following Resolutions, recommending to the City Council:

- Approval of a General Plan amendment (GPA18-001) (Resolution No. 20-03)
- Adoption of a Zoning Ordinance text amendment (ZO18-003) (Resolution No. 20-04)
- Adoption of a Planned Development Rezoning (ZC18-002) (Resolution No. 20-05),
- Approval of a Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) (Resolution No 20-07); and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on

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the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the proposed Development Agreement and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Resolutions, approved a General Plan Amendment (GPA18-001), Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Ordinances, approved a Zoning Ordinance Text Amendment (ZO18-003) and Planned Development Rezoning (ZC18-002); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

WHEREAS, the City Council makes the following findings, pursuant to City Council Resolution No. 6089, for approval of the Development Agreement and incorporated herein by reference:

Development Agreement Findings (DA19-001)

1. The proposed Development Agreement is consistent with the policies, general land uses and programs specified in the General Plan and other applicable specific plan given that the proposed office and research and development uses within the BioMarin campus would be consistent with the 2/3 MUE general plan land use designation, the proposed floor area ratio and height of the building are consistent with the FAR and height standards, with the inclusion of a General Plan amendment, which has been adopted by separate City Council resolution. The Development Agreement, and the approvals vested therein, would be consistent with:
 - a. Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts.
 - b. Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high-quality mixed-use development in the downtown designated areas;
 - c. Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with

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limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.

2. The Development Agreement, and the approvals vested therein, is compatible with the uses authorized in the regulations prescribed for the land use district in which the property is located, with an amendment to the PD zoning district which has been adopted by separate City Council resolution, in that:
 - a. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies;
 - b. The proposed blended 0.90 Floor Area Ratio will reduce the existing 999 3rd Street FAR but raise the existing SRCC FAR from 0.75 to 0.90. The net change will result in a total floor area that will be an increase in 30,678 sq. ft. for the newly modified total Project area.
 - c. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of the proposed Project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, the Development Agreement would not result in similar development increases for other areas of San Rafael and would not be precedent setting or growth-inducing.
3. The Development Agreement, and the approvals vested therein, is in conformity with public convenience, general welfare and good land use practice in that the proposed Project would provide desired public benefits and amenities as described in the adopted modification of General Plan Exhibit 10, including: Affordable housing (67 senior affordable units), a privately-owned public plaza (approximately 6,000 sq. ft.), a community facility (18,000 sq. ft. senior center), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
4. The Development Agreement will not be detrimental to the health, safety and general welfare, given that the City Council has certified an EIR assessing potential environmental impacts and most potential impacts can be reduced to less than significant levels with mitigation measures, and, by separate resolution, has adopted a statement of overriding considerations to four potential significant unavoidable impacts to land use and transportation associated with the development of the Project.
 - a. The City Council has balanced the economic, legal, social, and technological benefits of the proposed project against its unavoidable environmental impacts when determining to approve the project. The project benefits outweigh the unavoidable adverse environmental effects and are considered “acceptable” and a statement of overriding considerations has been adopted and supported by substantial evidence in the record;

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- b. In support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards;

WHEREAS, the City Council has considered the Planning Commission's recommendation to retain the previously imposed requirement for a new path behind the Lincoln Avenue parking garage, but finds that the elimination of this requirement is appropriate and warranted based on: 1) the totality of the benefits offered by the Development Agreement, which capture increased funding for pedestrian and bicycle improvements in the area; and 2) the Council's finding that the proposed new path would be duplicative with two other existing pedestrian paths within two hundred feet (Mahon Creek path along the eastern bank of Mahon Creek and Lincoln Avenue sidewalk), which provide similar and equal public access from Lincoln Avenue to 2nd Street and the Bettini Transit Center.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings.

The City Council hereby determines and finds that all of the facts and statements contained in the recitals herein, and the findings of Planning Commission Resolution No. 20-06, adopted January 28, 2020, recommending to the City Council adoption of this Ordinance, are true and correct.

DIVISION 2. Approval of Development Agreement.

The City Council hereby approves the Development Agreement, between with BioMarin (California Corporate Center Acquisition, LLC, a Delaware limited liability company "CCCA") and the City of San Rafael concerning the San Rafael Corporate Center project planned for the subject property at 999 3rd Street and the existing San Rafael Corporate Center Campus, a copy of which is on file in the office of the City Clerk. and the Council authorizes the Mayor and the City Clerk to execute said Development Agreement on behalf of the City and to take any other actions necessary to complete this transaction.

DIVISION 3. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

GARY O. PHILLIPS, Mayor

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ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of San Rafael on Monday, March 23, 2020 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

And will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of April 2020.

LINDSAY LARA, City Clerk

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RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A MASTER USE PERMIT (UP18-034), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-087), SMALL SUBDIVISION (S18-001), AND SIGN PROGRAM AMENDMENT (SP18-006) TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS AND A 67-UNIT, 70-FOOT TALL, SIX-STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 133,099 SQ. FT. PARCEL AT 999 3rd STREET AND ADJACENT SAN RAFAEL CORPORATE CENTER.
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in August of 2016, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing submitted to the City of San Rafael Community Development Department a Pre-Application to allow the City to conduct a technical review by City departments of major code requirements applicable to a proposal by, to develop a 133,099 sq. ft. parcel at 999 3rd Street. Based upon City staff's comments, BioMarin modified its project by reducing the requested total development square feet on 999 3rd Street as well as a requested height bonus; and

WHEREAS, BioMarin and Whistlestop submitted an application for Conceptual Design Review of their proposed development, and this conceptual application was reviewed by the Design Review Board on February 6, 2018 and by the Planning Commission on February 27, 2018. In general, the DRB and the Planning Commission were generally supportive of the proposed project including the design aesthetics, the overall height, and intensity of use. Comments were provided to Whistlestop/Eden Housing requesting the project design meet the requirements for front setbacks and suggested the proposal could include more height (and more units) to compensate for meeting the front setback requirements. Comments regarding parking included understanding the applicant's survey and existing conditions assessment; and

WHEREAS, on October 10, 2018, BioMarin, in conjunction with Whistlestop/Eden Housing, submitted project applications to the Community Development Department for a General Plan Amendment (GPA19-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Rezoning (ZC18-002), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) for the development of two 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft., and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street (the "Project"); and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Cultural Resources, Energy, Geology and Soils, Greenhouse Gases, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Recreation, Transportation/Traffic, Utilities, and Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Planning Commission conducted a public Study Session on May 14, 2019 to understand and evaluate the development program and entitlement requests, and was generally supportive of the project; and

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WHEREAS, on June 18, 2019, the San Rafael Design Review Board (DRB) held a duly noticed public meeting to formally review the Project plans and found that the Project design was generally appropriate, including the massing, color, and materials, and continued the Project for a consent calendar review, subject to minor revisions to landscaping and façade treatments; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). Following this review, on September 24, 2019, the Planning Commission held a duly- noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

WHEREAS, on August 20, 2019, the DRB conducted a duly noticed public meeting to review the revised Project plans and found that the requested revisions were acceptable, and unanimously voted to recommend approval of the project design to the Planning Commission; and

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed; and

WHEREAS, on January 10, 2020, Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and written responses to public agency comments were provided to agencies who commented on the DEIR; and

WHEREAS, on January 11, 2020, the Notice of Availability was also published in the Marin Independent Journal newspaper; and

WHEREAS, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and found that the FEIR complies with the requirement of CEQA; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the Project, Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006), and accepted all oral and written public testimony and the written report of the Community Development Department Planning staff; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of separate resolutions, took the following actions:

- a) Adopted Resolution No. 20-01 (5-0, 2 absent), recommending to the City Council certifying the 999 3rd Street BioMarin/Whistlestop/Eden Housing Project Final Environmental Impact Report (FEIR).

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- b) Adopted Resolution No. 20-02 (5-0, 2 absent), recommending to the City Council adoption of CEQA Findings, a Statement of Overriding Considerations, and approval of a Mitigation Monitoring and Reporting Program (MMRP).
- c) Adopted Resolution No. 20-03 (5-0, 2 absent), recommending to the City Council approval of General Plan Amendments to establish text and map amendments to: 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd Street site; and 2) amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site (GPA18-001).
- d) Adopted Resolution No. 20-04 (5-0, 2 absent), recommending to the City Council to approve a Zoning Text Amendment to establish a new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria (ZO18-003).
- e) Adopted Resolution No. 20-05 (5-0, 2 absent), recommending to the City Council approval of a Planned Development (PD) Rezoning to incorporate the BioMarin portion of the 999 3rd Street property into the existing SRCC PD District and update the PD with land use regulations and development standards (ZC18-002).
- f) Adopted Resolution No. 20-06 (5-0, 2 absent), recommending to the City Council approval of a Development Agreement for the BioMarin portion of the site to vest the entitlements for a 10-year period, freeze impact fees at current rates and modify terms of the prior Development Agreement. (DA19-001).
- g) Adopted Resolution No. 20-07 (5-0, 2 absent), recommending to the City Council approval of a Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) for the 999 3rd Street BioMarin/Whistlestop/Eden Housing Project.

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the Project site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of two separate resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on March 23, 2020, by adoption of a separate resolution, the City Council approved General Plan Amendments to establish text and map amendments to: 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd Street site; and 2) amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site; and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Ordinances, approved a Planned Development Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), and Development Agreement (DA19-001); and

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WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby approves the Use Permit Amendment (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) based on the following findings:

Findings for Use Permit (UP18-034)

In accordance with San Rafael Municipal Code (SRMC 14.22.080 (Findings), the City Council makes the following findings for approval of a use permit:

- A. As proposed and conditioned, the proposal to develop two, 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 square feet on a 118,099 sq.ft. portion of the subject property and a 70-foot tall, 6-story, 67-unit senior affordable residential building with 18,000 square feet of healthy aging campus on a 15,000 sq. ft. portion of the property, is in accord with the San Rafael *General Plan 2020*, the objectives of SRMC Title 14 (Zoning Ordinance), and the purposes of the zoning district in which the Project site is located. Detailed discussion of the Project's consistency with the applicable General Plan policies is provided in detail in matrix format in the staff report for this resolution.

The discussion demonstrates that the Project is generally consistent with the following applicable General Plan Policies:

- 1) As proposed, the Project's land uses are consistent with Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-9 (*Intensity of Nonresidential Development*), LU-10 (*Planned Development*) and LU-14 (*Land Use Compatibility*) in that:
 - a. Laboratory and general office uses are an allowable use in the 2nd/3rd Mixed Use General Plan Land use designation in which the Project site is located;
 - b. The proposed 207,000 sq. ft. buildings on the 118,099 square foot BioMarin portion of the lot at 999 3rd Street would be consistent with the maximum floor area ratio (FAR) limits, as modified through the General Plan amendment separately approved by the City Council, which established a blended FAR maximum of 0.90 for the 999 3rd St site and the San Rafael Corporate Center campus; and
 - c. The BioMarin portion of the project complies with the established height limits, through the provision of a General Plan amendment and Zoning text amendment to create a new height bonus for this site in exchange for certain public benefits. In addition, the Whistlestop component of the project complies with the height limit through a concession allowed under the State Density Bonus law, where the height bonus is necessary to make the project financially feasible and results in identifiable cost reductions.
- 2) As proposed and conditioned, the Project's land uses would be consistent with C-6 (*Proposed Improvements*), C-7 (*Circulation Improvements Funding*) and C-12 (*Transportation Demand Management*), in that:
 - a. The laboratory/office uses would be subject to the adopted citywide traffic mitigation fees, which would be used to fund long-term transportation improvements to maintain Level of Service (LOS) standards as identified in Circulation Policy C-6 and the payment of the

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mitigation fees will fund citywide improvements consistent with Circulation Policy C-7. The payment of fees would be in addition to installing the required intersection and pedestrian improvements identified in the EIR. However, the Whistlestop/EDEN affordable housing project is exempt from payment of traffic mitigation fees, per an exemption identified in the City Council Resolution establishing the Traffic Mitigation fee; and

- b. The Project is conditioned to require the preparation and submittal of a Transportation Demand Management (TDM) plan that would implement transportation demand measures such as encouraging employees, through incentives, to carpool and use public transit and other alternative means of transport.
- 3) The City Council has, by separate resolution, made findings to grant an Exception to Level of Service standards to allow for the following Project inconsistencies with Circulation Element Policies C-5 (Traffic Level of Service Standards):
- a. The increase in traffic estimated for the proposed uses would impact and change level of service conditions at local intersections and would warrant new transportation improvements that have been identified in the BioMarin and Whistlestop/Eden Housing Project Final EIR;
 - b. The Certified FEIR for this Project identifies that the additional traffic from the Project creates impacts to current Level of Service (LOS) conditions that cannot feasibly be mitigated to less than significant levels based on conflicts with the following two policies:
 1. Policy LU-2 Development Timing, in that the certified FEIR identifies that the Project would add a significant number of daily vehicle trips to this area of San Rafael, and levels of service at nearby intersections would be degraded. Policy LU-2 specifies that new development should only occur when adequate traffic conditions and circulation improvements are available.
 2. Policy C-5. Traffic Level of Service Standards, in that the FEIR identifies that the Project would impact the level of service (LOS) to the circulation network around the Project area, which would operate at unacceptable levels of service under Project conditions.

As proposed, the Project's land uses would be consistent with Neighborhood Element Policies NH-40(*Second Third Mixed Use District*), NH-41 (*Second Third Mixed Use District Design Considerations*), NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*), NH-8 (*Parking*), in that it would: facilitate additional employment and future economic success in the Downtown San Rafael area; allow compatible land uses that would fill current and long-term projected vacancies in laboratory and general office space; and provide required amount of parking required for the proposed uses; and .

- 4) The Project's land uses would be consistent with the Community Design Element Policy CD-21 (*parking lot landscaping*) in that the uses proposed will have an approved landscaping plan and design that will provide shade cover and adequate screening of vehicles within parking lot areas.
- 5) The Whistlestop proposal to provide 67 affordable housing units would be consistent with H-9 (*Special Needs*), H-13 (*Senior Housing*), H-14 (*Adequate Sites*), H-15 (*Infill Near Transit*) and H-17 (*Regulatory Processes and Incentives for Affordable Housing*), in that:
 - a) The project would provide all 67 of the new units as affordable to seniors, serving the special need for affordable senior housing in the community;
 - b) The new housing would be located new blocks from major transit, including the Bettini Transit Station and downtown SMART station;

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- c) The proposal utilizes the density bonus, including a greater density bonus than allowed by the State, which the City can accept if it finds that amount of affordable housing is greater than that required by the inclusionary housing ordinance. In this case, the inclusionary housing ordinance would require 20% of the units to be affordable, while this project proposes that all 67 units are affordable to seniors;
 - 6) The Project's land uses would be consistent with the Economic Vitality Element Policy EV-1 (*Economic Health and Quality of Life*) and EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*) in that:
 - a. The development of the residential, laboratory, and general office building would improve the downtown area for San Rafael and Marin County residents;
 - b. The proposed uses would ensure that two of the marquee employers in San Rafael would continue to provide jobs in a location close to freeway access; and
 - c. The development would allow a large pediatric pharmaceutical business and senior services business to remain in San Rafael and continue to serve the City and county at large.
 - 7) The Project's land uses would be consistent with the Sustainability Element Policies SU-1 (*Land Use*) and SU-2 (*Promote Alternative Transportation*), and the adopted Climate Change Action Plan in that: the uses are proposed within a vacant parcel adjacent to an office park that is close to public transit (Bettini Transit Station and Downtown San Rafael SMART rail station).
 - 8) The approval of the Project's land uses would be consistent with the PD-1936 District, as amended by the City Council's separate adoption of the PD Rezoning (ZC18-002), which would will permit the 207,000 sq. ft of BioMarin development to be incorporated into the existing San Rafael Corporate Center.
- B. That the Project's proposed uses, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City in that:
- 1) A FEIR has been prepared and certified for the Project pursuant to the provisions of the California Environmental Quality Act (CEQA), which finds that all potentially significant project impacts related to health and safety can be adequately mitigated to a less-than-significant level with the implemented mitigation measures outlined in the approved Mitigation Monitoring and Reporting Program (MMRP), for which compliance is required by conditions of this approval.
 - 2) A Statement of Overriding Considerations has been approved by separate City Council Resolution to address impacts that could not be mitigated to less than significant levels. The Statement of Overriding Consideration concludes that the totality of the project benefits outweigh the impacts to traffic and level of service standards
 - 3) Additionally, the Project has been reviewed by Community Development Department, the Department of Public Works, and other appropriate City Departments, and the Planning Commission, and conditions have been applied to minimize potential impacts to the public health, safety and welfare.
- C. That the proposed uses, together with the conditions applicable thereto, would comply with each of the applicable provisions of the amended Planned Development (PD) Zoning District contained in the Zoning Ordinance. The 118,099 sq. ft. BioMarin portion of the Project site has, by separate City Council resolution, been removed from the current 2/3MUE Zoning District and rezoned to be included in the current San Rafael Corporate Center PD District (PD-1936) with updated

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development standards and land use regulations with which the Project would be consistent. The Project would also comply with other applicable provisions in the Zoning Ordinance. That the proposed Whistlestop/Eden Housing uses together with the conditions applicable thereto, would comply with each of the applicable provisions of the 2/3MUE Districts contained in the Zoning Ordinance.

Findings for Environmental and Design Review Permit (ED18-087)

In accordance with SRMC Section 14.25.090 (Findings), the City Council makes the following findings for approval of an Environmental and Design Review Permit:

- A. That the proposed 999 3rd Street BioMarin/Whistlestop/Eden Housing Project is in accord with the General Plan, the objectives of the Zoning Ordinance, and the purposes of the district in which the site is located. A detailed discussion of the project's consistency with the applicable General Plan policies is provided in Use Permit findings above, and in matrix format in the General Plan Consistency Analysis included in the staff report. Detailed discussion of the Project's consistency with the applicable Zoning criteria is provided in matrix format in the General Plan Consistency Analysis, which is included in the Planning Commission staff report. The discussion demonstrates that the Project is generally consistent with the applicable Zoning criteria.
- B. The proposed Project complies with the design related criteria of SRMC Chapter 14.25-Environmental and Design Review Permits, in that:
 - 1) The Project does not interrupt major views of Mt. Tamalpais and surrounding hills;
 - 2) The site design provides for good vehicular, bicycle and pedestrian circulation and access;
 - 3) The front, north and south side elevations of the proposed buildings have appropriate level of massing and articulation combined with the types and colors of materials to create interest;
 - 4) The main vehicular and pedestrian access between the street and the buildings are oriented toward the building entry thereby creating a sense of entry;
 - 5) The DRB has determined that the proposed design provides appropriate variation in structure placement and height;
 - 6) The proposed landscaping generally conforms.
 - 7) Project architecture with appropriate massing, articulation, building colors and natural materials in earth tone colors with the blue color providing accent to the color palette, is harmoniously integrated in relation to the architecture in the vicinity in terms of colors and materials, scale and building design.
 - 8) The proposed parking requirements for this campus include a requirement for 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for general office uses, 1.5 parking spaces per 1,000 GSF for laboratory/research and development uses, and 1.0 spaces per 1,000 GSF of amenity uses for the newly expanded San Rafael Corporate Center PD District. The adequacy of the proposed parking standards has been evaluated and demonstrates that they are adequate to support the parking demand from the proposed use.
- C. That the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project design minimizes adverse environmental impacts in that:

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- 1) The City Council has certified the FEIR for the Project pursuant to the provisions of the California Environmental Quality Act (CEQA), which finds that all potentially significant Project impacts related to health and safety can be adequately mitigated to a less-than-significant level with the implemented mitigation measures outlined in the approved Mitigation Monitoring and Reporting Program (MMRP), for which compliance is required by conditions of this approval.
 - 2) That there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project. According to Public Resources Code, Section 21082.2, subdivisions (a) and (e), the lead agency (City) is tasked with determining the significance of impacts and statements in an FEIR are not determinative of significance. As set forth in the CEQA findings for this project, adopted by separate City Council resolution, the City Council has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue.
 - 3) The City Council has, however, determined that the Project is consistent with all of the pertinent General Plan goals and policies, including Policies LU-2 and C-5. Specifically, Policy C-5 allows the City to approve projects that exceed the level of service (LOS) standards if it finds that the benefits of the project to the community outweigh the resulting traffic impacts. The Project, therefore, meets the traffic standards set forth in the San Rafael General Plan 2020. Further, because the Project meets the traffic standards set forth in Policy C-5, and other infrastructure such as water and sewer is in place, the Project is consistent with Policies LU-2. Per CEQA Guidelines Section 15063, in approving the application to amend the San Rafael General Plan 2020, the City Council has weighed the benefits of the Project against the unavoidable, adverse environmental (traffic) effects of the Project and has adopted a statement of overriding consideration. The City Council has made similar findings as required by San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (*Exception Review*), to approve the Project, which exceeds the LOS standards, based on a finding that the Project's benefits to the community outweigh the Project's traffic impacts.
 - 4) By separate Resolution, the City Council has adopted a Statement of Overriding Considerations that concludes that the Project would not be detrimental to public health, welfare or safety, in spite of four potential impacts to land use and transportation associated with the development of the Project, balancing the economic, legal, social, and technological benefits of the Project against its unavoidable environmental impacts, finding that the Project's benefits outweigh its unavoidable adverse environmental effects.
- D. The design of the 999 3rd Street BioMarin/Whistlestop project, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City, given that; an EIR has been prepared for the Project and certified, identifying potential environmental impacts resulting from the Project. All potential adverse environmental impacts have been determined to be either no impact, less-than-significant, or less-than-significant with implementation of mitigation measures, with the exception of the impacts to level of service to the local circulation network. There is no feasible mitigation for impacts to local intersections and the City Council has adopted a Statement of Overriding Considerations to allow the significant unavoidable impact, based on the public benefits of the Project. Further:
- 1) The proposed Project has been reviewed by appropriate City departments. Conditions of approval recommended by other departments have been applied to minimize potential adverse visual, design, and safety impacts to the Project site and adjacent properties; and

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- 2) With the City Council's approval of a Planned Development Zoning amendment to add the 118,099 sq. ft. of land area for development of 207,000 sq. ft. of laboratory and general office to the allowable uses under the revised San Rafael Corporate Center Planned Development, the Project is consistent with the "2/3 MU" General Plan land use designation for this site and research and development and general office uses would be consistent with the PD land uses allowances as adopted by the amended PD zoning.

Findings for Small Subdivision (S18-001)

In accordance with SRMC Section 15.03.070(Findings), the City Council makes the following findings for approval of a Small Subdivision:

- A. The proposed map is consistent with the San Rafael General Plan and any applicable, adopted specific plan or neighborhood plan in that it creates two distinct development areas consistent with surrounding development. The proposed map will create a mixed-use district that furthers the development of downtown San Rafael and promotes the "Alive after Five" policy;
- B. The design or improvement of the proposed subdivision is consistent with the San Rafael General Plan and any pertinent, adopted specific plan or neighborhood plan in that the proposed Project is consistent with Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high-quality mixed-use development in the downtown designated areas and Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses;
- C. The property subject to subdivision is physically suitable for the type or density of development that is proposed in that the proposed Project is similar in size and scope to the neighboring San Rafael Corporate Center and includes much needed senior affordable housing in the downtown area;
- D. The property subject to subdivision is physically suitable for the density of development that is proposed in that the proposed Project will be consistent with the density and type of development occurring in the San Rafael Corporate Center, and provides senior affordable housing near existing infrastructure and public transit;
- E. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that an FEIR has been prepared and certified to assess potential environmental impacts and most potential impacts can be reduced to less than significant levels with recommended mitigation measures. Through adoption of a separate statement of overriding considerations to four potential impacts to land use and transportation associated with the development of the project, the City Council has determined that the Project has balanced the economic, legal, social, and technological benefits of the proposed Project against its unavoidable environmental impacts, and that the Project benefits outweigh the unavoidable adverse environmental effects and are considered "acceptable." A statement of overriding considerations has been adopted and supported by substantial evidence in the record. The Final EIR for the proposed Project does not identify any potential impact areas related to fish or wildlife habitat;

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- F. The design of the subdivision or the type of proposed improvements is not likely to cause serious health problems in that the proposed Project would provide desired public benefits and amenities as described in the adopted modified General Plan Exhibit 10, including: Affordable housing (67 senior affordable units), a privately-owned public plaza (approximately 6,000 sq. ft.), a community facility (18,000 sq. ft. senior center), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area; and
- G. The design of the subdivision or the type of proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the City Council may approve the map if it is determined that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired or secured for public use.

Findings for Sign Program Amendment (SP18-006)

In accordance with SRMC Section 14.19.046 (Findings), the City Council makes the following findings for approval of a Sign Program Amendment Permit:

- A. The signs contained in the amended BioMarin/Whistlestop/Eden Housing Sign program have common design elements placement, colors, architecture, materials, illumination, type, shape, letter size and letter type as the existing Sign Program for the San Rafael Corporate Center that governs the existing BioMarin campus;
- B. All of the signs contained in the program are in harmony and scale with the materials, architecture, and other design features of the buildings and property improvements they identify, and the program is consistent with the general design standards specified in Section 14.19.054; and
- C. The amount and placement of signage contained in the program is in scale with the subject property and improvements, as well as the immediately surrounding area.

Density Bonus /Concessions/Waivers Findings

- A. The Whistlestop component of the Project complies with the City's affordable housing requirement, pursuant to SRMC Section 14.16.030, by providing 100% of the 67 units as "affordable" or Below-Market-Rate (BMR) units, and one unit reserved for an on-site manager. All 67 of the affordable units would be affordable at Low or Very Low-income levels.
- B. By meeting the City's affordable housing requirement of 20%, the Project is eligible for up to a 35% density bonus, or 9 units, above the maximum of 25 units allowed on the 15,000 sq. ft. site. In addition, the Project is eligible for up to 3 concessions and unlimited waivers under the State Density Bonus law.
- C. By also meeting the City's affordable housing requirement, the Project is automatically eligible for a twelve-foot (12') height bonus under both the General Plan and SRMC Section 14.16.190, from 54' to 66'.
- D. The Project proposes two (2) discretionary concessions/waivers:

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- 1) To achieve the proposed 67 units, a Concession is requested for proposed density above the base” total of 34 units (including the 35 percent density bonus).
 - 2) To achieve the proposed 70-foot height a Concession is requested for proposed height increase from maximum height of 66 ft (based on 54-ft base height, plus 12-ft bonus).
- E. The additional density above the 35% and the 4 additional feet above the 12 ft. established height bonus are considered major concessions (SRMC 14.16.030.H.3.b.v) and therefore are subject to approval of the City Council and require that the applicant demonstrate through a financial pro forma that the concessions are needed to make the Project financially feasible. The applicant has complied with this requirement.
- F. Pursuant to SRMC Section 14.16.030.H.2, the City may, at its sole discretion, grant a density bonus exceeding the state minimum requirements where the applicant agrees to construct a greater number of affordable housing units than required pursuant to subsection (B)(2) of that section and necessary to qualify for the density bonus under that section. If such additional density bonus is granted by the City and accepted by the applicant, the additional density bonus shall be considered an additional concession or incentive for purposes of California Government Code Section 65915. Given that the project proposes 100% of the 67 units as affordable for seniors, the City finds that the 100% affordability provides a significant public benefit.
- G. Based on the fact that the project provides all 67 of the 67 units as affordable units to low and very low income households and supported by the financial pro forma that demonstrates that the additional density and concessions are necessary to make the 100% affordable housing project feasible, the City hereby grants the additional density above the 35% density bonus to allow 67 units on the site and the concessions/waivers (proposed density bonus and proposed height bonus) as requested by the project.

BE IT FURTHER RESOLVED, that City Council approves Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-001) for the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project subject to the following conditions of approval:

Master Use Permit (UP18-034) Conditions of Approval

Community Development Department, Planning Division

1. This Master Use Permit for the San Rafael Corporate Center approves a maximum of 715,519 sq. ft. of building area within eight (8) office buildings, which is composed of four areas:
 - a. Western Parcels - 775 Lindaro St parking garage (APN 013-012-38) and 755 Lindaro St parking lot and future office and Research and Development building (APN 013-012-39);
 - b. Central Parcels -750 Lindaro St office building (APN 013-021-53), 770 Lindaro St office building (APN 013-021-54), 770 Lindaro St office building (APN 013-021-55), 781 Lincoln Ave office building (APN 013-021-52), 791 Lincoln Ave office building (APN 013-021-51);
 - c. Eastern Parcel – 788 Lincoln Ave parking garage (APN 013-021-50);
 - d. Northern Parcel – 999 3rd St office and research and development buildings (APN portion of 011-265-01).
2. The approved uses within this campus include administrative office, general office and

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research/development uses and ancillary uses, as follows.

- a. Administrative and General Office Use. These uses are defined by the San Rafael Municipal Code, Title 14 (Zoning);
- b. Research and Development Use. Research and Development use is defined as a use engaged in scientific, medical or technological research with limited product testing and production. This use excludes full production industrial-type manufacturing and generally operates similar to and characteristic of low-intensity, general office use. Medical laboratories established for research (as opposed to labs providing testing services for patients/visitors) would be considered a research and development use. As research and development use is similar to and generally less intensive than general office use, it does not require the payment of any traffic mitigation fees or any provisions for additional on-site parking (over and above that approved for general and administrative office use).
- c. Ancillary Uses - Uses determined to be incidental or accessory to the above-listed land uses shall be permitted, as determined to be appropriate by the Community Development Director, including such uses as lobbies, conference rooms, employee spaces for gathering and or food consumption, gyms, amphitheatres, and other non-permanent general office spaces.

Residential and day care land uses are prohibited on the San Rafael Corporate Center campus by a recorded property deed restriction, described in condition 3, below.

3. The Use Permit approves the continued occupancy of the five (5) existing buildings and two (2) existing parking garages. In addition, the Use Permit approves the development and occupancy of three new buildings (two (2) new buildings at 999 3rd St and one (1) new building at 755 Lindaro St) and an expansion to the Lincoln Ave parking garage as follows:
 - 1) Two new buildings at 999 3rd St are allowed up to a total of 207,000 sq. ft.
 - 2) The new building at 755 Lindaro St is allowed to be up to 73,396 sq. ft.
 - 3) A six story expansion to the southern end of the existing six (6) Lincoln Ave parking garage (composed of 256 spaces) and creation of 41 surface parking spaces around the base of the parking structure
4. The Master Use Permit approves the existing uses and building on the San Rafael Corporate Center campus and the development of the three new buildings in accordance with the terms of the Development Agreement (DA19-001). The Development Agreement establishes a term of **10 years** from the effective date of the DA for the 999 Third St., 755 Lindaro St. and Lincoln Parking Structure expansion provided:
 - a) If BioMarin has not commenced construction of the first building at 999 Third St. by the 6th anniversary of the effective date of the DA, then BioMarin shall construct the Class II Bike lane along Lindaro from 3rd to Anderson as described in new obligation #12.e and the improvements to the 2nd and Lindaro intersection per new obligation #12.h, below;
 - b) If BioMarin has not commenced construction of second building at 999 Third Street by the 8th anniversary of the effective date of the DA, the vesting of the entitlements for the development of 755 Lindaro Street will expire;

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- c) Annually, on request by the City, BioMarin will report to the City on the status of its development plans related to the DA.

The effective date for this use permit shall be the effective date of the Ordinance adopted for the Planned Development (PD) District Zoning.

5. The Master Use Permit approves 185 surface parking spaces on the Western Parcel (south of Second Street, west of Lindaro Street) and surface parking and a six story addition to the 788 Lincoln Avenue parking garage on the Eastern Parcel (south of Second Street, east of Lincoln Avenue) totaling 297 spaces (256 structured spaces and 41 surface). These parcels are restricted to parking use and landscaping only. As required by the subdivision map for the San Rafael Corporate Center (RM 2002-185, recorded September 2002), a restrictive covenant has been recorded on the subdivision map to encumber the Western and Eastern Parcels, ensuring that any conveyance of these parcels shall include a reservation or grant of easement to the benefit of the Central Parcel (office park described in condition 1 above) to provide parking required by this Use Permit and the San Rafael Corporate Center Environmental and Design Review Permit (ED97-24).
6. Use of the Western, Central and Northern Parcels are subject to the Covenant of Deed Restriction, recorded on August 10, 1989. This covenant restricts the uses that are permitted on these properties and requires continued maintenance and monitoring of on-site groundwater conditions. The Master Use Permit and the Covenant of Deed Restriction recognize that the Western and Central Parcels contain utilities and groundwater remediation improvements that are to remain on these sites in perpetuity.

A portion of the 999 3rd St site (northern parcel) is proposed to be subdivided and transferred to Whistlestop/EDEN Housing for development of a healthy aging campus and senior housing. The new lot to be transferred to Whistlestop/EDEN Housing is neither part of the Master Use Permit nor the Planned Development (PD) District. Furthermore, that entire northern parcel is currently undergoing soils remediation with the intention to have the deed restriction prohibiting residential or day care uses removed.

7. This Master Use Permit approves a 20-foot height bonus (General Plan Exhibit 10 height Bonus) for the two new buildings on the 118,099 square foot portion of 999 3rd Street. The height bonus is granted based on the criteria in Exhibit 10 of the General Plan by providing the following benefits:
- Donation of land for 67 units of Affordable housing
 - Privately owned public plaza (6,000 sq. ft.)
 - The provision of a Community facility (e.g. senior center, 18,000 sq. ft. or more in size)
 - Pedestrian crossing safety improvements at adjacent intersections
 - Donation of funds for development of bike lanes
8. This Master Use Permit reaffirms the previously granted height bonus for development of four of the existing office buildings: 750 Lindaro St, 770 Lindaro St, 790 Lindaro St and 791 Lincoln Ave) on the Central Parcel. These public benefits include:
- a. Provision of permanent, public access, use and availability of the landscaped park area located on the south side of the office campus (south of and between 750 Lindaro St

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and 781 Lincoln Ave, bordered on the south by Mahon Creek). The park area shall be owned, in-fee, and permanently maintained by the property owner and/or the association of owners within the office park. A permanent public access easement has been recorded over the park area as part of the San Rafael Corporate Center subdivision map (RM 2002-185).

- b. Provision of a 2,500 sq. ft. conference/meeting space that is currently in 750 Lindaro St for use by public, subject to terms and regulations.
- c. The public use of this park area and conference/meeting space shall be subject to the conditions set forth below.

1. General Park Use

- A. For day-to-day general use, the park area shall be permanently accessible to the public, year-round (365 days) and during the daylight hours (dawn to dusk).
- B. The property owners and/or the association of owners within the office park shall be responsible for daytime and evening security of the park area.
- C. Fencing and security gates shall be provided and permanently maintained at both the Lindaro St and Lincoln Ave entrances to the park area (south of 750 Lindaro St and 791 Lincoln Ave). The security gates shall be left open during the daylight hours and closed after dark. Signage shall be installed at these entrance gates identifying the park and hours for public access.

2. Special Events and Activities

- A. Public use of the park area, and the 2,500 square foot conference/meeting room space (currently in 750 Lindaro St, but may be moved to any other building on campus). for special events and activities shall be scheduled by appointment, made through the property owner and/or association of owners within the office park. The property owner and/or association of owners shall designate a property manager to oversee the management and scheduling of special events and activities.
- B. The facilities shall be available for community use at minimum, as follows:
 - i. 5:00 PM to 10:00 PM, Monday through Friday.
 - ii. 8:00 AM to 6:00 PM, Saturdays and Sundays.
- C. First priority for use of the park area and the 2,500 square foot conference/meeting room space (currently provided in 750 Lindaro St, but may be moved to any other building on the campus) for special events shall be given to not-for-profit organizations, homeowners associations and neighborhood groups/associations within the City of San Rafael, schools within the City of San Rafael, and the City of San Rafael. No user fee shall be charged for the qualified users for special event use of the park area and/or the 2,500 square-foot conference/meeting room space, except deposit fees required for clean-up and security.
- D. Use of the park area for special events and activities shall include public access to restrooms and water fountains located within 750 Lindaro St and 781 Lincoln Ave. If these facilities are not available, portable restrooms shall be provided in the park area at no cost to the user
- E. Users of the park area and the 2,500 sq. ft. conference/meeting room space (currently provided in 750 Lindaro, but may be moved to any other building on the campus) for special events and activities shall be subject to compliance with specific rules, regulations and guidelines, which are to be maintained by and provided to the user by

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the property owner and/or the association of owners of the office park development. These rules, regulations and guidelines have been approved by City staff and the Park and Recreation Commission. The approved rules, regulations and guidelines are based on the public facility use regulations currently implemented by the City. The final, approved rules, regulations and guidelines shall be maintained on file with this Use Permit.

- F. The 2,500 sq. ft. conference/meeting room space available for public use is currently located in 750 Lindaro St, but may be moved to any other building within the campus, as long as the size, functionality, and amenities are consistent with the current conference/meeting room and consistent with the rules identified above
9. This Use Permit approves a parking ratio of:
- 3.0 parking spaces per 1,000 square feet of gross office building area,
 - 1.5 parking spaces per 1,000 square feet of gross laboratory/research and development building area, and
 - 1.0 parking spaces per 1,000 square feet of gross amenities and administrative building area development uses.
10. Within 60 days of the approval of the Use Permit, BioMarin will incorporate the following provisions into an enforceable deed restriction for the campus (Western, Central parcels, Eastern Parcel and Northern Parcels), except the portion transferred to Whistlestop/EDEN Housing):
- Changes in tenancy or use (change to multiple tenant occupancy, rather than single tenant), expansion of use(s), or expansion of floor area that create a parking demand that is more than five percent (5%) greater than the number of required parking spaces approved under the current Planned Development (PD) District shall provide additional automobile parking, bicycle parking, and loading space as required by this Planned Development (PD) District and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand.
 - Existing parking shall be maintained but may be replaced in a reconstructed parking facility.
 - A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with the Planned Development (PD) District).
11. As required by the previously executed Development Agreement (DA11-001), all surface parking lots within the greater San Rafael Corporate Center Campus shall be made available to the public from midnight to 6:00am and from 6:00pm to midnight on Monday through Friday and all hours on Saturday and Sundays. A permanent sign shall be posted and maintained at the vehicle entrances to all surface parking lots stating the public parking hours. The property owner shall not charge for public parking without the approval of the City. Approval of a charge for parking shall not be unreasonable withheld, provided that the proposed charges are not substantially and materially higher than the amounts charged by the City for City-owned parking facilities in the Downtown San Rafael.
12. As required by the current Development Agreement executed for this project (DA19-001), the following public benefits have been or shall be provided and maintained (where applicable):
- Provide Whistlestop the portion of 999 Third St. for senior housing development through a land swap for the Lindaro corporation yard, which due to the delta in value of the two properties results in BioMarin's donation of \$1.2M to support the development of the healthy aging center

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and affordable senior housing.

- b. Contribute, \$400,000 to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City. This shall be payable by \$100,000 each year (commencing on the first anniversary of the effective date of the Development Agreement) for 4 years.
 - c. Remediate a brownfield in the heart of downtown San Rafael, resulting in BioMarin out of pocket costs of over \$2M and total remediation costs of over \$16M.
 - d. Contribute \$500,000 to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City. This shall be payable by \$125,000 each year (commencing on the first anniversary of the effective date of the Development Agreement) for 4 years.
 - e. Add Class II Bike lane along Lindero from 3rd to Anderson with completion of Phase I.
 - f. Provide a 6,000 sf Public Plaza "Front Porch" to follow the same rules as the park available for public use listed above.
 - g. Provide 3,500 sf Retail open to public during regular business hours.
 - h. Improve intersection of 2nd & Lindero with completion of Phase I.
 - i. Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of the parcel, including, without limitation, all security, sanitation and janitorial.
13. BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow.
- a. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant.
 - b. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates.
 - c. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review.
 - d. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. **(MM TRANS-1)**

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Environmental and Design Review Permit (ED18-087) Conditions of Approval

General and On-Going

Community Development Department, Planning Division

1. The building techniques, colors, materials, elevations and appearance of the project, as presented to the Planning Commission at their January 28, 2020 hearing, labeled **999 3rd Street BioMarin/Whistlestop/Eden Housing project**, and on file with the Community Development Department, Planning Division, shall be the same as required for issuance of all building and grading permits, subject to these conditions. Minor modifications or revisions to the project shall be subject to review and approval of the Community Development Department, Planning Division. Further modifications deemed not minor by the Community Development Director shall require review and approval by the original decision-making body, the Planning Commission, and may require review and recommendation by the City's Design Review Board. (Applies to both components of project)
2. The approved colors for the project are on file with the Community Development Department, Planning Division. Any future modification to the color palette shall be subject to review and approval by the Planning Division and those modifications not deemed minor shall be referred to the Design Review Board for review and recommendation prior to approval by the Planning Division. (Applies to both components of project)
3. Within five (5) days of project approval, the project sponsor shall remit payment of the State Fish and Game fees in order for staff to file a Notice of Determination with the County Clerk within 5 days of project approval. The current fee amounts are \$3,343.25 payable to the State Fish and Game and \$50.00 payable to the Marin County Clerk and are subject to increase. (Applies to both components of project)
4. The project sponsor shall be responsible for implementing all mitigation measures presented in the Project's Final Environmental Impact Report (FEIR), on file with the Community Development Department, including any mitigation measures that may not have been incorporated into the Project conditions of approval. A deposit for Mitigation Monitoring shall be paid as required herein. (Applies to both components of project)
5. All required mitigation measures are identified in the Mitigation Monitoring and Reporting Program (MMRP) as recommend for adopted by separate Resolution and included as conditions of approval. (Applies to both components of project)
6. BioMarin/Whistlestop/Eden Housing agree to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the certification of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities. (Applies to both components of project)
7. In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify BioMarin/Whistlestop/Eden Housing of any such claim, action or proceeding, and

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the City will cooperate fully in the defense of such claim, action, or proceeding. In the event BioMarin/Whistlestop/Eden Housing is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: 1) approve the counsel to so defend the City; 2) approve all significant decisions concerning the manner in which the defense is conducted; and 3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding, provided that if the City chooses to have counsel of its own to defend any claim, action or proceeding where BioMarin/Whistlestop/Eden Housing already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City. (Applies to both components of project)

8. As a condition of this application, BioMarin/Whistlestop/Eden Housing agrees to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City. (Applies to both components of project)
9. All site improvements, including but not limited to, site lighting, fencing, landscape islands and paving striping shall be maintained in good, undamaged condition at all times. Any damaged improvements shall be replaced in a timely manner. (Applies to both components of project)
10. All fencing shall be installed and maintained in a good, undamaged condition. Any damaged portions shall be replaced in a timely manner. (Applies to both components of project)
11. The Project site shall be kept free of litter and garbage. Any trash, junk or damaged materials that are accumulated on the site shall be removed and disposed of in a timely manner. BioMarin/Whistlestop/Eden Housing shall institute a program to provide regular cleanup of the parking lot, parking structure and the site facility, as well as all other areas immediately around the new parking structure and office building (Applies to both components of project)
12. The project and this Environmental and Design Review Permit (ED18-087) shall be subject to all terms and obligations and benefits of the Development Agreement (DA19-001), adopted by separate Resolution.
13. The previously approved Design Review Permit (ED14-097 and ED17-057) for the design of the new building at 755 Lindaro St, on a portion of the Lindaro St surface parking lot, is included as part of the Development Agreement and the term of the approvals of ED14-097 and ED17-057 are hereby extended to match the approval of this Design Review Permit, which shall be consistent with the term of the Development Agreement.
 - a. The design for 755 Lindaro St and the six story expansion of the Lincoln Ave parking garage shall remain as was approved by ED14-097-ED17-057 and all prior conditions of approval, except as modified by these approvals, shall remain in effect.
14. All new landscaping shall be irrigated with an automatic drip system and maintained in a healthy and thriving condition, free of weeds and debris, at all times. Any dying or dead landscaping shall be replaced in a timely fashion. (Applies to both components of project)

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15. The project applicant shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground. **(MM TRANS-7a)** (Applies to both components of project)
16. The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways. **(MM TRANS-7b)** (Applies to both components of project)
17. This Environmental and Design Review Permit shall run with the land and shall remain valid regardless of any change of ownership of the project site, subject to these conditions, provided that a building/grading permit is issued and construction commenced or a time extension request is submitted to the City's Community Development Department, Planning Division, within the term of the Development Agreement, and subject to the terms and conditions of the Development Agreement. Failure to obtain a building permit or grading permit and construction or grading activities commenced, or failure to obtain a time extension within the two-year period will result in the expiration of this Environmental and Design Review Permit.
18. This Environmental and Design Review Permit (ED18-087) shall run concurrently with the Master Use Permit (UP18-034), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) approvals. If either entitlement expires, this Environmental and Design Review Permit approving the Project, as depicted on Project plans, shall also expire and become invalid.

Prior to Issuance of Grading/Building Permits

Community Development Department, Planning Division

19. BioMarin/Whistlestop/Eden Housing shall be responsible for all costs associated with mitigation monitoring and shall remit an initial deposit in the amount of \$5,000.00 for mitigation monitoring and condition compliance. Staff shall bill time against this deposit amount during Project review and implementation of the Project and monitoring of Project conditions, to assure compliance with conditions and mitigation measures has been achieved. (Applies to both components of project)
20. The design of the front "porch" of the BioMarin Building at 999 3rd St shall be modified per the recommendation of the Design Review Board at its meeting of August 20, 2020, which included widening the entry staircase to the front porch public space to 10 feet. (Applies to BioMarin component of project)
21. The design of the Whistlestop/EDEN Housing building at 999 3rd St shall be modified per the recommendation of the Design Review Board at its meeting of August 20, 2020, which included: 1) returning the upper story bay window feature previously shown on the plans to the building facades; and 2) lower the window sill height on the windows proposed for the ground floor lobby area. (Applies to Whistlestop component of project)
22. Any outstanding Planning Division application processing fees, including payment of EIR consultant and contract planner, shall be paid prior to issuance of the first construction permit. (Applies to both components of project).
23. Final landscape and irrigation plans for the Project shall comply with the provisions of Marin Municipal Water District's (MMWD) most recent water conservation ordinance. Construction plans submitted for issuance of building/grading permit shall be pre-approved by MMWD and stamped as approved by MMWD or include a letter from MMWD approving the final landscape and irrigation plans. Modifications to the final landscape and irrigation plans, as required by MMWD, shall be

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subject to review and approval of the Community Development Department, Planning Division. (Applies to both components of project)

20. A Construction Management Plan (CMP) shall be prepared and submitted to the Planning Division for review and approval by the Planning Division and Department of Public Works. The CMP shall include (Applies to both components of project):
- :
- a. Projected schedule of work
 - b. Projected daily construction truck trips
 - c. Proposed construction truck route, including where trucks will stage if they arrive prior to the allowable hours of construction
 - d. Location of material staging areas
 - e. Include all limitations, conditions of approval or mitigation measures that are required during construction
 - f. Identify location of construction trailers and of construction worker parking
 - g. Dust control program
 - h. Statement that the project shall conform to the City's Noise Ordinance (Chapter 8.13 of the San Rafael Municipal Code) as modified by Condition #113 (ED18-034) above which limits the days and hours of all grading and construction activities,
 - i. Statement that no construction truck traffic shall encroach into any of the surrounding residential neighborhood streets at any time,
 - j. Statement that the existing roadway conditions on 2nd and 3rd Streets shall be memorialized on digital recording format prior to the start of construction and that the project sponsor shall be required to repair any roadway damage created by the additional construction truck traffic.
 - k. Identify the name, phone number and contact information for an on-site construction manager who is responsible to implement the CMP
 - l. In the event that the CMP is conflicting with any conditions imposed by the grading permit for the project, the more restrictive language or conditions shall prevail.
 - m. It is the responsibility of the owner/applicant to ensure that the final and approved CMP be included as a requirement in the construction contract with contractors and subcontractors, bid documents and distributed to contractors (Applies to both components of project)
 - n. Truck routes shall be reviewed and approved by the City Department of Public Works. Hauling shall be limited to one truck in and one truck out per 15 minutes during the AM and PM peak unless otherwise permitted by the Department of Public Works.
24. All mechanical equipment (i.e., air conditioning units, meters and transformers) and appurtenances not entirely enclosed within the structures (on side of building or roof) shall be screened from public view. The method used to accomplish the screening shall be indicated on the building plans and approved by the Planning Division. (Applies to both components of project)
25. The project shall mitigate potential air quality impacts associated with construction and grading activities by preparing and submitting a Dust Control Plan to the City of San Rafael Community Development Department for review and approval, prior to issuance of a grading permit. **(MM AIR-1)** (Applies to both components of project)
26. The project shall reduce the potential exposure by the public to hazardous materials such as asbestos or lead during proposed demolition activities, by preparing a hazardous material remediation plan. Submit the plan to the City of San Rafael Community Development Department for review and approval prior to issuance of a demolition permit. **(MM HAZ-1)** (Applies to both components of project)

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27. The project shall mitigate operational noise by incorporating sound-rated OITC24 windows along and near the 2nd Street façade and standard double-paned windows at all other facades into the construction drawings. Further, all habitable rooms with exterior noise exposures greater than 60 Ldn will require alternative ventilation per Title 24. A post-construction Acoustical Analysis, by a qualified Acoustic Engineer, shall confirm that the project complies with maximum interior noise exposure limits of 45 Ldn and shall be submitted to the Community Development Department. **(MM NOISE-1)** (Whistlestop component of the project)
28. Prior to issuance of a building permit, or any construction permit for development of the Whistlestop component of the project on the 15,000 sq ft portion of the site, the applicant/property owner shall submit proof of rescission of the deed restriction currently recorded on the Whistlestop portion of the property by the Department of Toxic and Substance Control (DTSC) which restricts residential uses on the 999 3rd St site. Once it has been demonstrated that the deed restriction has been rescinded, construction permits may be issued (subject to other conditions and requirements for issuance of a permit). (Applies to Whistlestop component of project)
29. The project has requested and received a density bonus in excess of the 35% maximum allowed by the State, by providing 100% of the units as affordable to seniors at low and very low income levels. Prior to issuance of a building permit, the property owner shall record a BMR agreement on the property, deed-restricting the income level for occupancy of the affordable units. (Applies to Whistlestop component of the project)
30. Prior to the approval of building permits, the applicant shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits. **(MM HYDRO-1)** (Applies to both components of project)
31. The project applicant shall incorporate the recommendations of the preliminary hydrology study into the project design and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans. **(MM HYDRO-2)** (Applies to both components of project)
32. Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction

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vehicles do not affect parking availability on downtown streets. **(MM TRANS-5)** (Applies to both components of project)

33. SRMC Section 14.16.030.I.2 prescribes the process and standards and also allows the Community Development Director to determine the number of affordable employees based on comparable employee densities. Therefore, based on the employment densities proposed in these new buildings, the standard used to determine the number of affordable units is 0.01625/1,000 sq. ft. of gross floor area. For this particular project, that would result in the requirement for 3.36 affordable units to be provided by the 207,000 sq. ft. of new building ($207 * .01625 = 3.36$ affordable units). The current in-lieu fee for one affordable unit is \$343,969.47, therefore the in-lieu fee amount that would be required is \$1,155,737.42. This fee shall be paid prior to the issuance of the building permit for the 1st BioMarin building. (BioMarin component of project)
 - a. The Development Agreement (DA) approved for this project vests the affordable housing in lieu fee amount at the current rate of \$343,969.47 for the 10-year term of the DA.
34. All submitted building permit plan sets shall include a plan sheet incorporating these conditions of approval. (Applies to both components of the project)
35. If reclaimed water for landscaping purposes is made available, BioMarin/Whistlestop/Eden Housing shall upgrade its water system and install any and all required facilities to use reclaimed water for all site landscaping purposes. (Applies to both components of the project)
36. The project applicant shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a “pre-construction” study, followed by a “post-construction” survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval. **(MM TRANS-6)** (Applies to both components of the project)

Public Works Department

37. Frontage improvements shall include: street lighting, conduit for City facilities, accessible curb ramp pairs, drainage facilities, street trees, sidewalk, curb and gutter.
38. A separate photometric for street lighting shall be required in order to determine the precise locations for street lighting.
39. All improvements shall be coordinated with City projects. For example, the City is anticipating improvements on Third St. and circulation modification downtown. Due to the timeline for these projects, infrastructure installation may need to be installed earlier than the construction of the BioMarin portion of the development, unless an alternative is agreed upon by the City.
40. The project applicant shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. **(MM GEO-1/GEO-2)** (Applies to both components of project).
41. The site is a former Manufactured Gas Plant, which had undergone environmental remediation activities. Should the need arise, the generator (responsible party) of the previous contamination

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may require access to certain areas. It is our understanding that the applicant has assessed this aspect and designed accordingly. (Applies to both components of project).

42. Prior to issuance of a building permit, the applicant shall submit improvement plans and obtain an encroachment permit for any work within the Right-of-Way, from the Department of Public Works located at 111 Morphew St., for design and construction of the following:
 - a. Curb ramp improvements at all corners of the following intersections 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. **(MM TRANS-8)** (Applies to both components of the project).
 - b. Curb ramps shall be directional as determined by the Department of Public Works.
 - c. Only the frontage improvements along the frontage for each component of the project shall be required during their phase of development
 - d. Crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. **(MM TRANS-9)** (BioMarin component of project)
 - e. Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. **(MM TRANS-10)** (Whistlestop component of project)
 - f. Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/EDEN Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. **(MM TRANS-11)** (Whistlestop component of project)
 - g. The project applicant shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. **(MM TRANS-12)** (Applies to both components of the project).
 - h. Please note that Brooks, Lindaro and Second Streets are currently moratorium streets and full width resurfacing is required for street cuts. Non-moratorium streets shall require resurfacing for approximately 50% of the width along the frontage, depending on the location of utility work, and intersection and crosswalk improvements. The extents shall be reviewed at the time of encroachment permit.
 - i. Restriping of public streets shall be of thermoplastic, as approved by the Department of Public Works. Signage and striping shall be reviewed and approved by the City Traffic Engineer.
43. Third party peer review of geotechnical and engineering reports and inspection throughout construction shall be required, paid for by the project sponsor and contracted by the City. A proposed project schedule for the duration of work is required prior to submittal for a grading or building permit, so that an estimate may be prepared for the required deposit amount. (Applies to both components of the project)

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44. A construction vehicle impact fee shall be required at the time of building permit issuance; which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt. (Applies to both components of the project)
45. Off-site improvements shall be bonded and included upon an improvement agreement or completed prior to a parcel map. Provide an engineer's estimate for the improvements for review and incorporation to the agreement. (Applies to both components of the project)
 - a. All improvements along Brooks St and the Whistlestop frontage shall be completed prior to occupancy, with a subdivision improvement agreement. (Applies to Whistlestop component of the project)
 - b. All other subdivision improvements along the remainder of the BioMarin frontage shall be installed prior to occupancy of the first phase of the buildings, if not earlier. (Applies to BioMarin component of the project)
 - c. Bonds shall be required for the complete improvements, prior to recordation of a map or occupancy of a portion of the project. (Applies to both components of the project)
46. The traffic mitigation fee is estimated at 203 AM and 191 PM trips based on the transportation impact study (Table 20). This applies to the BioMarin Facility. Separately, the trip generation estimated for the Whistlestop housing may be considered exempt from the traffic mitigation fee on the condition that it is restricted to affordable housing.
 - a. BioMarin component results 394 total peak hour trips at \$4,246/trip, for a mitigation fee of \$1,672,924 (203 am + 191pm trips). The Development Agreement (DA) approved for this project vests the traffic mitigation fee amount at the current rate of \$4,246/trip for the 10-year term of the DA.
 - b. Whistlestop Component results in 78 total peak hour trips at \$4,246/trip for a mitigation fee of \$331,188. However, the Whistlestop component of the project is exempt from the payment of traffic mitigation fees, based on City Council Resolution No's 11668 and 13364, which exempts affordable housing projects from payment of traffic mitigation fees
47. All plans, reports, monitoring, inspection and testing for the proposed project will be reviewed by an independent Geotechnical Engineer and/or Engineering Geologist retained by the City, at the expense of the project sponsor. This third-party consultant will review all plans, reports, monitoring, inspection and testing data prior to appropriate approvals and/or certifications. A letter report summarizing findings and recommendations shall be submitted by the geotechnical engineer to the City Engineer for review and approval, as well as incorporation into grading plans. (Applies to both components of the project)
48. Final grading and foundation techniques shall be developed by a certified geotechnical engineer or engineering geologist and reviewed and approved by the City. (Applies to both components of the project)
49. In order to limit residual migration of contaminants, alternative stormwater treatment may be required by the Department of Public Works, such as filtration planters (non-infiltrating), or mechanical filtration combined with retention.

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50. A final drainage plan shall be prepared and submitted for review and approval with the final improvement plans. The plan shall be prepared by a registered civil or hydrologic engineer and shall include hydrologic and hydraulic calculations as well as details of the proposed improvement and stormwater treatment facilities. The final drainage plan shall be subject to review and approval by the City Engineer. The final drainage plan shall address the following:
- a) The plans shall show the existing drainage facilities
 - b) Runoff shall not be increased, leaving the project boundary
 - c) Filtration shall be required for particles equal to or larger than 5mm, so they do not enter into the City's storm drainage system
 - d) Placards (medallions) shall be installed on all new drainage inlets to prohibit dumping of pollutants. These are available from the City or MCSTOPPP
 - e) A stormwater facilities maintenance agreement shall be required
 - f) How the project's drainage system shall be maintained, whether separate for each site or together along with the other development improvements.
 - g) The drainage plan shall be developed in consideration with the site history of contamination.

Provide the final hydrologic analysis of the detailed drainage system and conformance with the mitigation measures required by the EIR for the 100-year event with regard to the City's infrastructure receiving flow, as well as any potential impact to the flood zone for FEMA requirements. (Applies to both components of the project)

51. Utility improvements shall be required as per the individual utilities. In general, undergrounding, housing utilities in vaults, and repair of City infrastructure shall be required. This shall be reviewed and approved by the Department of Public Works with the detailed utility and subdivision improvement plans and more precisely with the encroachment permit.

Community Development Department, Building Division

52. The design and construction of all site alterations shall comply with the California Building Code (CBC), California Plumbing Code (CPC), California Electrical Code (CEC), California Mechanical Code CCMC), California Fire Code (CFC), California Energy Code, California Green Building Standards Code and City of San Rafael Ordinances and Amendments that are in effect at the time of building permit submittal
53. A building permit is required for the proposed work. Applications shall be accompanied by four (4) complete sets of construction drawings to include:
- a. Architectural plans
 - b. Structural plans
 - c. Electrical plans
 - d. Plumbing plans
 - e. Mechanical plans
 - f. Site/civil plans (clearly identifying grade plane and height of the building)
 - g. Structural Calculations
 - h. Truss Calculations
 - i. Soils reports
 - j. Green Building documentation
 - k. Title-24 energy documentation
54. The occupancy classification, construction type and square footage of each building shall be specified on the plans. In mixed occupancies, each portion of the building shall be individually classified.

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55. Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.
56. The maximum area of unprotected and protected openings permitted in the exterior wall in any story of a building shall not exceed the percentages specified in CBC Table 705.8 "Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree of Opening Protection." To calculate the maximum area of exterior wall openings you must provide the building setback distance from the property lines and then justify the percentage of proposed wall openings and include whether the opening is unprotected or protected.
57. For buildings located four or more stories above grade plane, one stairwell must extend to the roof, unless the roof slope exceeds an angle of four vertical to 12 horizontal CBC 1011.12. (Applies to both components of project)
58. Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20. (Applies to both components of project)
59. School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit. (Applies to both components of project)
60. Regarding any grading or site remediation, soils export, import and placement; provide a detailed soils report prepared by a qualified engineer to address these procedures. The report should address the import and placement and compaction of soils at future building pad locations and should be based on an assumed foundation design. This information should be provided to Building Division and Department of Public Works for review and comments prior to any such activities taking place. (Applies to both components of project)
61. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted. (Applies to both components of project)
62. Based on the distance to the property line (and/or adjacent buildings on the same parcel), the building elements shall have a fire resistive rating not less than that specified in CBC Table 601 and exterior walls shall have a fire resistive rating not less than that specified in CBC Table 602. (Applies to both components of project)
63. Cornices, eaves overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of CBC 705.2. Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection (Applies to both components of project):
 - a. A point one-third the distance from the exterior face of the wall to the lot line where protected openings or a combination of protected openings and unprotected openings are required in the exterior wall.
 - b. A point one-half the distance from the exterior face of the wall to the lot line where all openings in the exterior wall are permitted to be unprotected or the building is equipped throughout with an automatic sprinkler system.

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- c. More than 12 inches into areas where openings are prohibited.
- 64. Ventilation area required, the minimum openable area to the outdoors is 4 percent of the floor area being ventilated CBC 1203.5.1 or mechanical ventilation in accordance with the California Mechanical Code. (Applies to both components of project)
- 65. Natural light, the minimum net glazed area shall not be less than 8 percent of the floor area of the room served CBC 1205.2 or shall provide artificial light in accordance with CBC 1205.3. (Applies to both components of project)
- 66. Walls separating purposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction. (Applies to both components of project)
- 67. All site signage as well as wall signs require a separate permit and application (excluding address numbering). (Applies to both components of project)
- 68. The Whistlestop/EDEN Housing building must apply for a new address for this building from the Building Division.
- 69. In the parking garage, mechanical ventilation will be required capable of exhausting a minimum of .75 cubic feet per minute per square foot of gross floor area CMC Table 4-4. (Applies to Whistlestop component of project)
- 70. In the parking structure, in areas where motor vehicles are stored, floor surfaces shall be of noncombustible, nonabsorbent materials. Floors shall drain to an approved oil separator or trap discharging to sewers in accordance with the Plumbing Code and SWIPP. (Applies to Whistlestop component of project)
- 71. Minimum elevator car size (interior dimension) 60" wide by 30" deep with an entrance opening of at least 60" or a car size of 42" wide by 48" deep with an entrance opening of 36" or a car size of 60" wide by 36" deep with an entrance opening of at least 36". (Applies to both components of project)
- 72. All buildings with one or more elevators shall be provided with not less than one medical emergency service elevator. The medical emergency service elevator shall accommodate the loading and transport of an ambulance gurney or stretcher. The elevator car size shall have a minimum clear distance between walls and door excluding return panels not less than 80 inches by 54 inches and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door. (Applies to both components of project)
- 73. In the service areas, mechanical ventilation will be required capable of exhausting a minimum of 1.5 cubic feet per minute per square foot of gross floor area. Connecting offices, waiting rooms, restrooms, and retail areas shall be supplied with conditioned air under positive pressure. (Applies to both components of project)
- 74. The proposed facility shall be designed to provide access to the physically disabled. For existing buildings and facilities when alterations, structural repairs or additions are made, accessibility improvements for persons with disabilities shall be required unless CASP report states compliant. Improvements shall be made, but are not limited to, the following accessible features (Applies to both components of project):
 - a. Path of travel from public transportation point of arrival
 - b. Routes of travel between buildings

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- c. Accessible parking
- d. Ramps
- e. Primary entrances
- f. Sanitary facilities (restrooms)
- g. Drinking fountains & Public telephones (when provided)
- h. Accessible features per specific occupancy requirements
- g. Accessible special features, i.e., ATM's point of sale machines, etc.

75. The site development of items such as common sidewalks, parking areas, stairs, ramps, common facilities, etc. are subject to compliance with the accessibility. Pedestrian access provisions should provide a minimum 48" wide unobstructed paved surface to and along all accessible routes. Items such as signs, meter pedestals, light standards, trash receptacles, etc., shall not encroach on this 4' minimum width. Also, note that sidewalk slopes and side slopes shall not exceed published minimums. The civil, grading and landscape plans shall address these requirements to the extent possible. (Applies to both components of project)

76. The parking garage ceiling height shall have a minimum vertical clearance of 8' 2" where required for accessible parking. (Applies to Whistlestop component of project)

77. Multistory apartment or condominium on the ground floor in buildings with no elevator at least 10 percent but no less than one of the multistory dwellings in apartment buildings with three or more and condos with four or more dwellings shall comply with the following (Applies to Whistlestop component of project):

- a. The primary entry to the dwelling unit shall be on an accessible route unless exempted by site impracticality tests in CBC Section 1150A.
- b. At least one powder room or bathroom shall be located on the primary entry level, served by an accessible route.
- c. All rooms or spaces located on the primary entry level shall be served by an accessible route. Rooms and spaces located on the primary entry level and subject to this chapter may include but are not limited to kitchens, powder rooms, bathrooms, living rooms, bedrooms or hallways.

78. Multifamily dwelling and apartment accessible parking spaces shall be provided at a minimum rate of 2 percent of the covered multifamily dwelling units. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2 percent. (Applies to Whistlestop component of project)

79. Public accommodation disabled parking spaces must be provided according the following table and must be uniformly distributed throughout the site. (Applies to both components of project)

Total Number of Parking Spaces Provided	Minimum Required Number of H/C Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

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401 to 500	9
501 to 1,000	Two percent of total
1,001 and over	Twenty, plus one for each 100 or fraction thereof over 1,001

80. At least one disabled parking space must be van accessible; 9 feet wide parking space and 8 feet wide off-load area. Additionally, one in every eight required handicap spaces must be van accessible. (Applies to both components of project)

San Rafael Sanitation District

81. The applicant shall submit complete civil engineering plans, including plan and profile of the sewer lateral connections to the existing sewer system. The drawings will also need to show any existing sewer laterals which are being abandoned. The drawings shall comply with the most recent version of San Rafael Sanitation District Standards. (Applies to both components of project)

82. The applicant shall submit detailed flow calculations showing normal and peak flow rates. Based on the results of the flow calculations, the project sponsor may be required to replace or up-size sewer lines in the vicinity of the project to accommodate the increased flows. (Applies to both components of project)

83. The sewer lateral connection for BioMarin shall be made to the 27" VCP mainline on 2nd not the 12" VCP on 3rd Street. The Whistlestop component of the project shall be made to the 12" VCP on 3rd Street (Applies to both components of project)

84. The Sewer Connection fees will be required prior to issuance of the Building Permit. Applicant must submit civil/utility plans indicating all the proposed new fixtures so the District staff can calculate the final amount. (Applies to both components of project)

85. In order for the applicant to request credit for the existing fixtures on the buildings, the applicant must submit civil/utility plans including a full inventory of the existing fixtures (if necessary, accompanied by photos) to request any adjustment of these fees. (Applies to both components of project)

San Rafael Fire Department, Fire Prevention Bureau

86. The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers. **(MM TRANS-13)** (Applies to both components of project)

87. The design and construction of all site alterations shall comply with the 2016 California Fire Code and City of San Rafael Ordinances and Amendments. (Applies to both components of project)

88. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems (Applies to both components of project):

- a. Fire Sprinkler plans (Deferred Submittal to the Fire Prevention Bureau).
- b. Fire Standpipe plans (Deferred Submittal to the Fire Prevention Bureau).
- c. Fire Underground plans (Deferred Submittal to the Fire Prevention Bureau).
- d. Fire Alarm plans (Deferred Submittal to the Fire Prevention Bureau).
- e. Kitchen Hood Automatic Fire-Extinguishing System plans (Deferred Submittal to the Fire Prevention Bureau) if applicable. (Applies to both components of project)

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89. A fire apparatus access plan shall be prepared for this project. Fire apparatus plan shall show the location the following (Applies to both components of project):
- a. Designated fire apparatus access roads.
 - b. Red curbs and no parking fire lane signs.
 - c. Fire hydrants.
 - d. Fire Department Connections (FDC).
 - e. Double detector check valves.
 - f. Street address signs.
 - g. Recessed Knox Boxes
 - h. Fire Alarm annunciator panels.
 - i. NFPA 704 placards.
 - j. Provide a note on the plan, as follows: The designated fire apparatus access roads and fire hydrants shall be installed and approved by the Fire Prevention Bureau prior construction of the building. (Applies to both components of project)
90. Plans of the high-piled combustible storage area, drawn to scale, shall be submitted with the Fire Sprinkler Plans to the Fire Prevention Bureau. The high piled plans shall include at least the following:
- a. Floor plan of the building showing locations and dimensions of high-piled storage areas.
 - b. Usable height for each storage area.
 - c. Number of tiers within each rack, if applicable.
 - d. Commodity clearance between top of storage and the sprinkler deflector for each storage arrangement.
 - e. Aisle dimensions between each storage array.
 - f. Maximum pile volume for each storage array.
 - g. Location and classification of commodities in accordance with CFC Section 2303.
 - h. Location of commodities which are banded or encapsulated.
 - i. Location of all required fire department access doors.
 - j. Type of fire suppression and fire detection systems.
 - k. Location of valves controlling the water supply of ceiling and in-rack sprinklers.
 - l. Type, location and specifications of smoke removal and curtain board systems.
 - m. Additional information regarding required design features, commodities, storage arrangement and fire protection features within the high-piled storage area shall be provided at the time of permit, when required by the fire code official. (Applies to both components of project)
91. Knox Key Boxes are required at the primary point of first response to the building. (Applies to both components of project).
92. A Knox Box is required at the primary points of first response to the building. A recessed mounted Knox Box # 3275 Series is required for this project; the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72" to 78" above finish grade; show the location on the plans. (Applies to both components of project)
93. On site fire hydrants could be required. (Applies to both components of project)
94. When a building is fully sprinklered all portions of the exterior building perimeter must be located within 250-feet of an approved fire apparatus access road.

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- a. The minimum width of the fire apparatus access road is 20-feet.
 - b. The minimum inside turning radius for a fire apparatus access road is 28 feet.
 - c. The fire apparatus access road serving this building is more than 150-feet in length; provide an approved turn-around. Contact the Fire Prevention Bureau for specific details. (Applies to both components of project)
95. If the building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building.
- a. The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.
 - a. The minimum unobstructed width for an aerial fire apparatus access road is 26-feet.
 - b. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building. (Applies to both components of project)
96. Fire lanes must be designated; painted red with contrasting white lettering stating "No Parking Fire Lane" A sign shall be posted in accordance with the CFC Section 503.3. (Applies to both components of project)
97. Building address numbers and directories must be to Fire Department standards. (Applies to both components of project)
98. Hazardous Materials Placard shall be installed in accordance with NFPA 704. (Applies to both components of project)
99. Provide a Hazardous Materials Management Plan to be submitted to Marin County Department of Public Works, CUPA (Applies to both components of project)
100. Contact the Marin Municipal Water District (MMWD) to make arrangements for the water supply serving the fire protection system. (Applies to both components of project)

Marin Municipal Water District

101. District records indicate that the property's current annual water entitlement is insufficient to meet the water demand for the project and the purchase of additional water entitlement will be required. Additional water entitlement will be available upon request and fulfillment of the following requirements:
- a. Complete a High Pressure Water Service Application
 - b. Submit a copy of the building permit.
 - c. Pay appropriate fees and charges.
 - d. Complete the structures foundation within 120 days of the date of application
 - e. Comply with the District's rules and regulations in effect at the time service is requested.
 - f. Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. This may include verification of specific indoor fixture efficiency compliance. If you are pursuing a landscaping project subject to review by your local planning department and / or subject to a city permit, please contact the district water conservation department at 415-945-1497 or email to plancheck@marinwater.org. More information about district water conservation requirements can be found on line at www.marinwater.org. (Applies to both components of project)
102. Comply with the backflow prevention requirements, if upon the Districts review backflow protection is warranted, including installation, testing and maintenance. Questions regarding

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backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1558. (Applies to both components of project)

103. Use of recycled water is required, where available, for all approved uses, including irrigation and the flushing of toilets and urinals. Questions regarding the use of recycled water should be directed to Dewey Sorensen at (415) 945-1558. (Applies to both components of project)
104. Comply with Ordinance No. 429 requiring the installation of gray water recycling systems when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service. (Applies to both components of project)

Pacific Gas & Electric

105. Electric and gas service to the project site will be provided in accordance with the applicable extension rules, which are available on PG&E's website at <http://www.pge.com/myhome/customerservice/other/newconstruction> or contact (800) PGE-5000. It is highly recommended that PG&E be contacted as soon as possible so that there is adequate time to engineer all required improvements and to schedule any site work. (Applies to both components of project)
106. The cost of relocating any existing PG&E facilities or conversion of existing overhead facilities to underground shall be the sole responsibility of the applicant or property owner. (Applies to both components of project)

During Construction

Department of Public Works – Land Development

107. All mass grading shall be limited to April 15 through October 15, unless otherwise approved in writing by the Department of Public Works. A grading permit shall be obtained for all grading and site improvement work. Trucking trips during peak hours may be limited. (Applies to both components of project)
108. All public streets and sidewalks and on-site streets which are privately owned that are impacted by the grading and construction operation for the Project shall be kept clean and free of debris at all times. The general contractor shall sweep the nearest street and sidewalk adjacent to the site on a daily basis unless conditions require greater frequency of sweeping. (Applies to both components of project)
109. Prior to the start excavation or construction, the general contractor shall call Underground Service Alert (USA) at (800) 227-2600 to have the location of any existing underground facilities marked in the field. (Applies to both components of project)

Community Development Department, Planning Division

110. Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the

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archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.

The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:

“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.” **(MM CULT-1/CULT-2)**
(Applies to both components of project)

111. Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

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“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.” (**MM GEO-3**): (Applies to both components of project)

112. During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD (**MM AIR-1**) (Applies to both components of project)
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations.
113. The project shall implement the City of San Rafael Noise Ordinance construction noise requirements to minimize noise impacts during construction. Construction noise related to demolition and grading work done within 15 feet of the west property line could exceed the Ordinance requirements. Neighbors shall be informed before any construction activities and any input they have on construction scheduling shall be incorporated to the extent feasible, and the work should be conducted as quickly as possible to minimize exposure time. (**MM NOISE-2**) (Applies to both components of project)
114. The BioMarin project applicant shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: After the Whistlestop/EDEN Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA Lmax is not exceeded at the Whistlestop/Eden Housing project. (**MM NOISE-1a**) (Applies to BioMarin component of project)
115. The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications (Applies to both components of project):

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- a. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment.
- b. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible.
- c. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction.
- d. Use "quiet" air compressors and other stationary noise sources where technology exists.
- e. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible.
- f. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity.
- g. Prohibit all unnecessary idling of internal combustion engines.

(MM NOISE-1b)

116. The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include (Applies to both components of project):
- a. Designation of an on-site construction complaint and enforcement manager for the project.
 - b. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence.
 - c. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.

(MM NOISE-1c)

117. Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b. **(MM NOISE-1d)** (Applies to both components of project)

118. The project applicant shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA Lmax/50 dBA Leq during daytime or 50 dBA Lmax/40 dBA Leq during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency

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generators, acoustical screen walls, and equipment enclosures. **(MM NOISE-2)** (BioMarin portion of the project)

Prior to Occupancy

Community Development Department, Planning Division

119. Final inspection of the project by the Community Development Department, Planning Division, is required. The applicant shall contact the Planning Division to request a final inspection upon completion of the project. The final inspection shall require a minimum of 48-hour advance notice. (Applies to both components of project)
120. All landscaping and irrigation shall be installed prior to occupancy. In the alternative, the applicant or property owner shall post a bond with the City in the amount of the estimated landscaping/irrigation installed cost. In the event that a bond is posted, all areas proposed for landscaping shall be covered with bark or a substitute material approved by the Planning Division prior to occupancy. Deferred landscaping through a bond shall not exceed 3 months past occupancy. (Applies to both components of project)
121. The landscape architect for the project shall submit a letter to the Planning Division, confirming the landscaping has been installed in compliance with the approved project plans and the irrigation is fully functioning. (Applies to both components of project)
122. All ground- and rooftop-mounted mechanical equipment shall be fully screened from public view. (Applies to both components of project)
123. All trash enclosures shall be screened by a combination of fencing with privacy slats and landscaping. (Applies to both components of project)

Public Works Department

124. The project shall install signs at the driveway exit to alert drivers to look for pedestrians on the sidewalk. (Applies to both components of project)
125. Regulatory agency approval shall be required for the mitigations to be implemented for the various occupancy types of each of the buildings, prior to occupancy. (Applies to both components of project)
126. Prior to occupancy, the project applicant shall install all required (Applies to both components of project)
 - a) Curb ramp improvements at all corners of the following intersections: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. **(MM TRANS-8)** (Applies to both components of the project).
 - b) Crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. **(MM TRANS-9)** (BioMarin component of project)
 - c) Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and

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roadway infrastructure work, as well as traffic and pedestrian signal modifications. (**MM TRANS-10**) (Whistlestop component of project)

- d) Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (**MM TRANS-11**) (Whistlestop component of project)
- e) Install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (**MM TRANS-12**) (Applies to both components of the project).

After Occupancy

Community Development Department, Planning Division

127. Following the issuance of a Certificate of Occupancy, all new exterior lighting shall be subject to a 90-day lighting level review period by the City to ensure that all lighting sources provide safety for the building occupants while not creating a glare or hazard on adjacent streets or be annoying to adjacent residents. During this lighting review period, the City may require adjustments in the direction or intensity of the lighting, if necessary. All exterior lighting shall include a master photoelectric cell with an automatic timer system, where the intensity of illumination shall be turned off during daylight. (Applies to both components of project)

Small Subdivision (S18-001) Conditions of Approval

Community Development Department of Public Works

1. This Small Subdivision (S18-001) shall run with the land and shall remain valid regardless of any change of ownership of the project site, subject to these conditions, provided that a Parcel Map is recorded or a time extension request is submitted to the City's Community Development Department, Planning Division, within **the term of the Development Agreement**, and subject to the terms and conditions of the Development Agreement. Failure to record a Parcel Map, or failure to obtain a time extension within the two-year period will result in the expiration of this Small Subdivision (S18-001). (Applies to BioMarin component of project)

Department of Public Works

- 2. A Parcel Map shall be required. A copy of the recent title report, legal description, and closure calculations is required. The map shall be reviewed by the City Surveyor and City Engineer. Please see Title 15 of the Municipal Code for Parcel Map requirements. (Applies to BioMarin component of project)
- 3. If the installation of subdivision improvements is not completed prior to recordation of a Parcel Map, a subdivision improvement agreement and security, such as a bond or deposit shall be required. (Applies to BioMarin component of project)

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4. A title report for the site is required to show the source information for lot lines on the tentative map. The referenced Record of Survey 2016 RS 131 notes that the Right-of-Way for Second Street could not be determined from the information provided. This area has been occupied by a sidewalk and in use by the public. The proposed project keeps this area clear, with allows for continued use as a sidewalk. (Applies to BioMarin component of project)
5. Prior to approval of the Tentative Map, the portion of the sidewalk shall be dedicated as public Right-of-Way, or at minimum a Public Access Easement and Public Utility Easement. (Applies to BioMarin component of project)
6. A portion of the traffic signal equipment at the corner of Lindaro St and Second St may extend on-site. The Tentative Map may include this area in an easement, or the public facilities shall be relocated off-site as part of the subdivision improvements. (Applies to BioMarin component of project)

Sign Program Amendment (SP18-006) Conditions of Approval

Community Development Department, Planning Division

1. The sign program and appearance and location of all approved signage, as presented to the Design Review Board at its June 18, 2019 hearing, labeled *BioMarin/Whistlestop/Eden Housing Project*, and on file with the Community Development Department, Planning Division, shall be the same as required for issuance of all building permits, subject to these conditions. Minor modifications or revisions to the signage shall be subject to review and approval of the Community Development Department, Planning Division. Further modifications deemed not minor by the Community Development Director shall require an amendment to the Sign Program. (Applies to BioMarin component of project)
2. This Sign Program Amendment (SP18-006) shall run with the land and shall remain valid regardless of any change of ownership of the Project site, subject to these conditions, provided that a building permit is issued and installation of signs commenced or a time extension request is submitted to the City's Community Development Department, Planning Division, within **the term of the Development Agreement**, and subject to the terms and conditions of the Development Agreement. Failure to obtain a building permit and construction activities commenced, or failure to obtain a time extension within the two-year period will result in the expiration of this Sign Program Amendments. (Applies to BioMarin component of project)
3. This Sign Program Amendment (SP18-006) approving revised site and building signage shall run concurrently with the approved Environmental and Design Review Permit (ED18-087) and Master Use Permit (UP18-034). If either entitlement expires, this Sign Program Amendment shall also expire and become invalid.
4. Future changes to the signage shall require a Sign Permit to review and confirm changes are consistent with the Sign Program.
5. If future signage changes do not meet the Sign Program, the signage shall be revised to meet the approved Program or a Sign Program amendment will need to be applied for and approved

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I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

LINDSAY LARA, City Clerk

Attachment 8

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE SIGNING OF A
DEVELOPMENT AGREEMENT FOR THE BIOMARIN PROJECT AT
999 3rd ST AND THE SAN RAFAEL CORPORATE CENTER.
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows

The MAYOR and CITY CLERK are authorized to execute, on behalf of the City of San Rafael, a Development Agreement with BioMarin (California Corporate Center Acquisition, LLC, a Delaware limited liability company "CCCA"), a copy of which is hereby attached and by reference made part hereof.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

LINDSAY LARA, City Clerk

Exhibit A Development Agreement

Recorded at the request of
and when recorded, return to:

Attn.: _____

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER’S USE)

DEVELOPMENT AGREEMENT
(BioMarin San Rafael Campus)

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is entered into as of _____, 2020, by and between the City of San Rafael, a California charter city (the “City”), and California Corporate Center Acquisition, LLC, a Delaware limited liability company (“CCCA” or “Developer”) (collectively the “Parties” to this Agreement). This Development Agreement is entered into pursuant to the authority set forth in California Government Code Sections 65864 through 65869.5 and San Rafael Municipal Code Section 14.16.100, and is executed under the following facts, circumstances and understandings of the parties:

A. The State Development Agreement Legislation authorizes the City to enter into development agreements in connection with the development of real property within its jurisdiction by persons with a requisite legal or equitable interest in the real property which is the subject of a development agreement. The State Development Agreement Law also authorizes the City to enact, by resolution or ordinance, procedures or requirements for the consideration of development agreements, to meet the goals of the State Development Agreement Law, to conserve resources, reduce development costs to the consumer and encourage investment in and a commitment to comprehensive planning to maximize the efficient utilization of resources at the least economic cost to the general public. Pursuant to this authority, the City has enacted the Development Agreement Ordinance and Resolution.

B. The City has determined that the New Projects are a development for which a development agreement is appropriate in order to achieve the goals and objectives of the City's land use planning policies and to provide appropriate assurances to Developer regarding its ability to complete the New Projects. This will in turn eliminate uncertainty in planning for and secure orderly development of the New Projects, assure progressive installation of necessary improvements and provision for public services appropriate to each stage of development of the New Projects, and otherwise achieve the goals and purposes of which the Development Agreement Ordinance and Resolution were enacted by the City. In exchange for these benefits

to the City, Developer desires to receive the assurance that it may proceed with the New Projects in accordance with the Existing Ordinances, subject to the terms and conditions contained in this Agreement.

C. CCCA is the owner of that certain real property legally described on Exhibit A-1 attached hereto and made a part hereof (the "Original SRC Property"), commonly known as the San Rafael Corporate Center or the BioMarin San Rafael Campus (the "SRC"). On February 17, 1998, the San Rafael City Council (the "City Council") adopted Ordinance No. 1722 approving that certain Development Agreement by and among the City, and previous owners of the Original SRC Property, Village Builders, L.P. and Fair, Isaac and Company, Inc. (collectively, "Fair Isaac") for development of the Original SRC Property. Such Development Agreement, dated February 17, 1998, was recorded in the Office of the Marin County Recorder on April 9, 1998 as Document No. 98-023245 (the "1998 DA").

D. The 1998 DA was first amended by that certain Amendment to Development Agreement approved by Ordinance No. 1755 on August 21, 2000 (the 1998 DA as amended, the "First Amended 1998 DA") to accommodate multi-tenant use of the office park, and in 2007, all of Fair Isaac's rights and obligations under the First Amended 1998 DA were assigned to San Rafael Corporate Center, LLC, a Delaware limited liability company ("SR Corporate") in connection with Fair Isaac's transfer of the Original SRC Property to SR Corporate.

E. The First Amended 1998 DA was further amended by that certain Second Amendment to Development Agreement approved by Ordinance No. 1902 on December 19, 2011 (the First Amended 1998 DA, as further amended, the "Second Amended 1998 DA") to expand use for the office park to include medical and research and development uses. As of the date of this Agreement, the Second Amended 1998 DA remains in full force and effect.

F. CCCA, as the present owner of the SRC, is the successor-in-interest to all of SR Corporate's rights and obligations under the Second Amended 1998 DA.

G. As of the date hereof, the SRC is improved with five (5) buildings consisting of approximately 400,700 building square feet and two (2) parking garages. A depiction of the existing SRC development is shown on Exhibit A-2 attached hereto and made a part hereof.

H. In 2015, pursuant to Ordinance No. 1936, the City approved for development at the SRC a four-story office building at 755 Lindaro Street ("Lindaro Development") and an accompanying six-story expansion of the existing 788 Lincoln Avenue parking structure ("Lincoln Parking Expansion"), for which construction has not yet commenced, and eliminated the previously allowed medical office use.

I. This Agreement carries forward certain ongoing obligations of CCCA with respect to the Original SRC Property under the 1998 DA (Ordinance No. 1722), the First Amended 1998 DA (Ordinance No. 1755) and the Second Amended 1998 DA (Ordinance No. 1902) and development rights and obligations under Ordinance No. 1936 and it is the intention

of the Parties that this Agreement consolidate all existing and ongoing development obligations and rights with respect to the Property in this Agreement.

J. BioMarin Pharmaceutical Inc. (“BioMarin”), the parent company of CCCA, owns the real property located adjacent to the SRC and commonly known as 999 3rd Street, which consists of approximately 133,099 square feet, as more particularly described on Exhibit B attached hereto and made a part hereof (the “999 3rd Street Property”). Developer plans to expand the SRC to encompass a portion of the 999 3rd Street Property consisting of approximately 118,100 square feet, as more particularly described and depicted on Exhibit C attached hereto and made a part hereof (the “R&D Development Property”) and construct research and development buildings at that location to meet Developer’s growing need for additional research and development laboratories and offices.

K. Developer proposes to undertake the Lindaro Development and Lincoln Parking Expansion and to develop the R&D Development Property. The existing SRC property as expanded to include the R&D Development Property shall be referred to herein as the “Expanded SRC”.

L. The City is willing to enter into this Agreement with Developer because the public benefits of the existing SRC and the R&D Development Property include, among others:

(1) continued development of San Rafael’s downtown in a manner which is supported by and consistent with the goals of the City’s Vision Committee, the Business Improvement District, the San Rafael Chamber of Commerce, the City’s Bicycle Plan and other city and community organizations;

(2) continued development of San Rafael’s downtown with buildings which will be seen as an attractive gateway to the City and which are consistent with the City’s adopted Our Vision of Downtown San Rafael for the Lindaro Office District and the Second/Third Mixed Use Land Use District;

(3) a development which will provide monetary contributions totaling \$900,000 and will address mitigations to improvements to roads, traffic, circulation, and parking to serve the public, and for pedestrian and bicycle safety;

(4) the donation of the Northwestern Portion to Whistlestop, consisting of approximately 15,000 square feet, for the development of 67 units of affordable senior housing and a healthy aging campus;

(5) the donation of a lease to Whistlestop of 648 Lindaro Street for three (3) years;

(6) completion of the second and final phase of the 999 3rd Street Property remediation;

(7) the provision of 3,500 square feet of retail space and 6,000 square feet of landscaped plaza at the corner of 3rd and Lindaro Street open to the public during Developer's business hours; and

(8) the provision of up to 70% of the surface area of the R&D Development Property for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the R&D Development Property, all as further described, and subject to, the terms of this Agreement.

M. City and Developer desire to enter into this Agreement to secure the public benefits enumerated in the Recitals and to vest the entitlements created by the Vested Approvals in Developer and the Property, upon the all the terms and conditions thereof, as provided pursuant to Government Code Sections 65864 et seq.

N. The City Council, having completed its public hearing, finds that the provisions of this Agreement are consistent with the City General Plan and with the provisions of the General Plan applying to the Downtown and Lindaro Office District and the Second/Third Mixed Use Land Use District and that the environmental impacts of the development contemplated herein were fully considered in the Final Environmental Impact Report prepared and certified by City and complies in all respects with the requirements of the California Environmental Quality Act. So finding, the City approves entry into this Agreement by adoption of Ordinance No. _____. The findings of said Ordinance No. ____ are incorporated in this Agreement as recitals by this reference.

O. The above Recitals to this Agreement are incorporated herein by this reference.

NOW, THEREFORE, pursuant to the authority contained in Government Code Sections 65864 et seq., and in consideration of the mutual covenants and promises of the parties herein contained, the parties agree as follows:

Article 1. Definitions.

1.1. Affiliate. A Person who directly or indirectly controls, is controlled by, or is under common control with CCCA, or a Person at least a majority of whose economic interest is owned by CCCA.

1.2. Approvals. All amendments to any Ordinances and Development Policies heretofore or hereafter enacted, necessary or appropriate to confer the requisite lawful right of Developer to develop the New Projects, and any and all permits or approvals of any kind or character required under the Ordinances and Development Policies in order to develop the New Projects.

1.3. Developer. CCCA and any Affiliate for so long as either CCCA or its Affiliate owns any portion of the Property, or a successor-in-interest to CCCA or its Affiliate with respect to the Property.

1.4. Development Agreement Legislation. California Government Code Section 65864 et seq., enacted by the Legislature to strengthen the public planning process, encourage private participation in comprehensive planning, reduce the economic costs of development and give assurances to the applicant for a development project, authorizes the City and an applicant for a development project to enter into a development agreement, establishing certain development rights for the development of property that is the subject of a development project application.

1.5. Development Agreement Ordinance and Resolution. City Municipal Code Section 14.16.100 and City Council Resolution No. 6089, including "Appendix A: Regulations Establishing Procedures and Requirements for Consideration of Development Agreements", adopted pursuant to the Development Agreement Legislation, and as adopted on the Effective Date of this Agreement.

1.6. Enacting Ordinance. Ordinance No. _____ enacted by the City Council of San Rafael on _____, 2020, approving this Development Agreement dated as of _____, 2020.

1.7. Exactions. All exactions imposed upon the New Projects through conditions of approval, in lieu fees or payments, dedication or reservation requirements, obligations for on- or off-site improvements or construction requirements for public improvements or public facilities, or services called for in connection with the development of or construction on property under the Existing Ordinances, whether such exactions constitute subdivision improvements, mitigation measures, or impositions made under other Existing Ordinances or in order to make a project approval consistent with the City's laws or procedures.

1.8. Existing Fees. All application fees, processing fees, regulatory fees, in lieu fees or payment or impact fees set by the City, including any fee or charge imposed in connection with the development of the Property and/or imposed to mitigate adverse environmental impacts, which are either: (a) set forth in the City of San Rafael Master Fee Schedule, as imposed by the City at the Effective Date (attached hereto as Exhibit D); or (b) specified in the Vested Approvals.

1.9. Existing Ordinances. The Ordinances and Development Policies of the City that were in effect on the Effective Date of this Agreement.

1.10. Existing Development. The office, research and development use development consisting of Buildings A, B, C, D and E and two parking garages on the Original SRC Property, as depicted on Exhibit A-2 attached hereto, which have been completed in compliance with the Second Amended 1998 DA.

1.11. Lindaro and Parking Expansion Project. The office building on 755 Lindaro Street and six-story expansion of the existing 788 Lincoln Avenue parking structure approved by the City in 2015 through Ordinance No. 1936 and Resolution No. 14027.

1.12. New Projects. The phased office, research and development use development and all associated amenities, including, but not limited to, surface and structured parking, landscaping, and on- and off- site improvements, contemplated by or embodied within the Vested Approvals for (i) the Lindero and Parking Expansion Project, and (ii) the two research and development buildings on the R&D Development Property.

1.13. Northwestern Portion. The approximately 15,000 square feet of the northwest corner of the 999 3rd Street Property to be donated to Whistlestop and Eden Housing for the development of an affordable senior housing and a healthy aging campus, as depicted in the Tentative Parcel Map on Exhibit E attached hereto and made a part hereof. The Northwestern Portion shall benefit from a five-foot wide landscaped easement running along the east and south boundaries of this area exclusively and solely provided to allow the inclusion of windows in the senior housing and a healthy aging building along the easement for compliance with building code set back requirements. The Northwestern Portion is not part of this Development Agreement.

1.14. Ordinances and Development Policies. Consistent with the provisions of Government Code Section 65866, the ordinances, resolutions, codes, General Plan, rules, regulations and official policies of the City of San Rafael governing the permitted uses of land, governing density or intensity of development, and governing design, improvement and construction standards and specifications, any and all of which may be applicable to development of the Property. Excluded from the foregoing are those which pertain to or impose life-safety, fire protection, electrical and/or building integrity requirements.

1.15. Person. Any person, partnership, corporation, municipal corporation, governmental board, body, agency or representative, or other form of organization or entity.

1.16. Property. The real property as described and shown in Exhibits A and C on which the Existing Development or New Projects has been or is intended to be developed. The Property consists of the Original SRC Property and the R&D Development Property.

1.17. Property – Lot or Parcel. Any lot or parcel within the Property.

1.18. R&D Development Property. The remaining approximately 118,100 square feet portion of the 999 3rd Street Property after Developer's donation of the Northwestern Portion for the healthy aging campus, as depicted on Exhibit C, attached hereto and made a part hereof.

1.19. Substitute Developer. Shall consist of any Person who: (i) has a net worth, as of the date of the proposed Transfer, which exceeds Five Million Dollars (\$5,000,000.00); and (ii) who has the development experience, in development of office projects or comparable real estate development projects, to carry out and complete the New Projects.

1.20. Transfer. Any voluntary or involuntary sale, transfer, conveyance, or other disposition of fee title to the whole or any part of the Property, or any assignment of this Agreement.

1.21. Vested Approvals. Those Approvals for the New Projects adopted by the City and all conditions thereto as of the Effective Date of this Agreement, including the following:
The approvals, as described in Exhibit F attached hereto and made a part hereof, which include:

- (i) General Plan Amendment (GPA 18-001);
- (ii) Zoning Text Amendment (ZO18-003);
- (iii) PD Rezoning (ZC18-002);
- (iv) Master Use Permit (UP18-034);
- (v) Environmental and Design Review Permit (ED18-087);
- (vi) Design Review Permit (ED17-057);
- (vii) Small Subdivision (S18-001);
- (viii) Sign Program Amendment (SP18-006); and
- (ix) Ordinance No. 1936.

Article 2. Effective Date; Term.

2.1. Effective Date. This Agreement shall be effective as of the date the Enacting Ordinance becomes effective pursuant to Government Code Section 36937. However, if the Enacting Ordinance is made the subject of a referendum or is challenged by legal action, then the Effective Date shall be the date when the referendum proceedings and/or legal proceedings have been finally concluded.

2.2. Term of this Agreement. The Term of this Agreement shall continue until the tenth (10th) anniversary of the effective date of the Enacting Ordinances, unless the Term is earlier terminated or extended by amendment as provided by applicable Government Code provisions and City's Development Agreement and Ordinance and Resolution.

2.3. Term of Approvals. The Vested Approvals and any and all Approvals granted by the City after the Effective Date, shall remain valid for the Term of this Agreement.

2.4. Term of the Second Amended 1998 DA. By its terms, the Second Amended 1998 DA remains effective until 2021. The Parties hereby agree the Second Amended 1998 DA shall terminate upon the Effective Date of this Agreement because the Parties acknowledge and agree that the Lindaro and Parking Expansion Project is further entitled consistent with the Second Amended 1998 DA subject to the terms of this Agreement. The Parties hereby agree that the Lindaro and Parking Expansion Project is entitled pursuant to this Agreement and consistent with the Second Amended 1998 DA and that the Second Amended 1998 DA shall only terminate upon the Effective Date of this Agreement.

Article 3. Development of Property; Fees.

3.1. Development of Property. Developer shall have the right to develop the Property as set forth in the Vested Approvals and in accordance with this Agreement. City shall have the right to regulate development of the Property in accordance with the provisions of this Agreement.

3.1.1. Vested Approvals, Existing Ordinances, and Development Agreement Control.

Except as otherwise specified in this Agreement, the Vested Approvals and the Existing Ordinances shall control the design, development and construction of the New Projects, and all on- and off-site improvements and appurtenances in connection therewith, in the manner specified in this Agreement. No part of the Vested Approvals may be revised or changed during the Term without the consent of Developer, except as may be authorized under Government Code Section 65866 or permitted pursuant to the provisions of Section 3.3 herein.

3.1.2. Conflicting Changes in City Regulations. No future modification of City's code or ordinances, or adoption of any code, ordinance, regulation, whether adopted by the City Council or through the initiative or referendum process, which conflicts with the Vested Approvals of this Agreement shall apply to the Property or modify this Agreement without amendment hereto to so provide by the parties.

3.2. Development of New Projects. The New Projects, as set forth in the Vested Approvals, include, but are not limited to, the following:

- 3.2.1. Permitted uses for single or multi-tenant office, research and development, accessory retail use development.
- 3.2.2. Density of Use consisting of eight (8) office building structures to be erected in Phases, totaling Seven Hundred Fifteen Thousand Five Hundred (715,500) square feet of gross floor area and parking on surface and in two (2) parking structures.
- 3.2.3. Maximum height of buildings of Seventy-Eight (78) feet for the Original SRC Property and Seventy-Two (72) feet for the R&D Development Property, inclusive of the "Building Height Bonus" approved by the City, as required by the Use Permit (UP 97-10).

3.3. Changes in State or Federal Law. In the event that any state or federal laws or regulations, enacted after the Effective Date, prevents or precludes compliance with one or more provisions of this Agreement, and the provisions hereof are not entitled to the status of vested right under California law, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Immediately after enactment of any such state or federal laws or regulations, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect that such modification or suspension would have on the purpose and intent of this Agreement. City shall not prohibit Developer's right to contest such law or regulation and seek a declaration that it does not require modification or suspension of

provisions of this Agreement. If any such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

3.4. Phasing of the Development of the Property. Five (5) building structures consisting of approximately 400,700 building square feet and two (2) parking garages have been completed on the Original SRC Property in accordance with the Second Amended 1998 DA. Development of the R&D Development Property and Lindaro and Parking Expansion Project is expected to occur in four (4) phases: construction of Building A, which would be located on the north side of the R&D Development Property and include approximately 77,000 square feet of office space and 33,000 square feet of amenities for employees and visitors of SRC; construction of Building B, which would be located on the southern portion of the R&D Development Property and consist of approximately 97,000 square feet of laboratory, research and development space; construction of an office building on 755 Lindaro Street; and construction of a six-story expansion of the existing 788 Lincoln Avenue parking structure. Buildings A and B and 755 Lindaro and the 788 Lincoln Avenue parking structure may be built in any order, as determined by Developer in its sole discretion.

3.5. Development Scheduling. Developer shall have no obligation to initiate or complete development of any aspect of the New Projects within any period of time. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure of the parties to provide for the timing of development resulting in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the City's and Developer's intent here to cure that deficiency by acknowledging and providing that Developer shall have the right (without obligation), subject to the provision of this Agreement, to complete the New Projects in such order and at such rate and at such times as Developer deems appropriate within the exercise of their subjective business judgment.

3.6. Fees. City agrees that only Existing Fees calculated and in place as of the Effective Date of this Agreement (and no other application fees, processing fees, regulatory fees, in lieu fees or payments or impact fees) shall apply to the New Projects.

Article 4. Obligations Relating to the R&D Development Property.

4.1. Northwestern Portion Donation. Developer shall donate the Northwestern Portion to Whistlestop as part of a land swap through which the delta in value of the swapped properties, as of a June 2018 appraisal, results in a One Million Two Hundred Thousand Dollars (\$1,200,000) donation. Developer shall donate the Northwestern Portion in its then current as-is condition, for development of a healthy aging campus and affordable senior housing.

4.2. Remediation. For the benefit of development of a healthy aging campus and affordable senior housing, Developer shall complete the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Developer shall complete such second phase of remediation prior to commencement of construction and development activities for the R&D Development Property,

resulting in out-of-pocket costs for Developer of over Two Million Dollars (\$2,000,000) and total remediation costs of over Sixteen Million Dollars (\$16,000,000).

4.3. Retail Space. Developer agrees that a portion of the R&D Development Property consisting of approximately 3,500 square feet of retail space (the actual layout and location of such space to be determined by Developer) (the “Retail Space”) shall be open to the public during Developer’s business hours (from 9 a.m. to 5:00 p.m.). This obligation shall commence upon the issuance of the certificate of occupancy for the Retail Space and when the Retail Space is open for business and continue until such time as the Retail Space is vacant because a tenant cannot be found despite commercially reasonable efforts to market the space at a commercially reasonable rent for three years.

4.4. Public Plaza. Developer agrees to provide an approximately 6,000 square feet of landscaped plaza “Front Porch” located at the corner of 3rd Street and Lindaro Street (the actual layout of such plaza to be determined by Developer) that will be open to the public from dawn to dusk. This obligation shall commence upon the issuance of the certificate of occupancy for such plaza.

4.5. Striping for Bike Lane. Developer shall add striping for Class II Bike lane on Lindaro Street from 3rd Street to Anderson Drive or up to one mile of an equivalent section of roadway in San Rafael that is determined by the City to meet the City’s Bicycle & Pedestrian Plan. This obligation shall be required at the time of the issuance of the first certificate of occupancy for either Building A or B, unless otherwise required by Section 4.11.1.

4.6. Restriping for Pedestrian Safety. Developer shall improve pedestrian safety with restriping at the corner of Lindaro Street and 3rd Street. This obligation shall be required at the time of the issuance of the first certificate of occupancy for either Building A or B, unless otherwise required by Section 4.11.1.

4.7. Contribution for Traffic Light Synchronization. Developer shall contribute \$500,000 to the City towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This obligation may be payable in full at the first anniversary of the Effective Date, or \$125,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date), at the option of Developer, in Developer’s sole discretion. In exchange for this \$500,000 contribution and in light of significant concerns about pedestrian safety and the fact that a parallel public path already exists, the City is eliminating a prior requirement that the Lindaro and Parking Expansion Project develop and maintain a trail along the backside of the Lincoln Avenue garage which is along southern edge of the campus abutting Mahon Creek.

4.8. Contribution for Shuttle Service. Developer shall contribute \$400,000 to the City for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This

obligation shall be payable in increments of \$100,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date).

4.9. City's Use for Public Parking and Ancillary Uses. As of the Effective Date of this Agreement and until Developer submits any construction related permit (grading, building, etc.) for either Building A or B, the Developer shall allow the City to utilize up to 70% of the surface area of the R&D Development Property (the exact layout to be reasonably negotiated and agreed to by the parties so as to maximize the utility of the portion to be used by the City and the remaining portion) for public parking and ancillary uses (such as food truck market, etc.) (the "Temporary Public Parking Parcel") until such time as commencement of construction activities for either building on the R&D Development Property. City shall be financially and legally responsible for (i) any improvements or modifications to the R&D Development Property that the City deems necessary to implement the public parking and ancillary uses reasonably approved by Developer, and restoration of the R&D Development Property to its condition before such use when City's use expires in accordance with the terms of this paragraph, (ii) all liability related to the public's use of the R&D Development Property pursuant to this paragraph, (iii) all security, sanitation, janitorial service relating to the City's use; and (iv) any other operational cost associated with the City's use of the R&D Development Property pursuant to this paragraph. The City may sublicense its rights to the Temporary Public Parking Parcel to the Business Improvement District ("BID") solely for the purpose of developing and managing the Temporary Public Parking Parcel. Except to BID as set forth above, the City may not sublicense or otherwise transfer or share its rights to the Temporary Public Parking Parcel to or with any person or entity without the prior written approval of Developer, which approval may be withheld or given in Developer's sole discretion. Developer acknowledges that the City is entitled to keep any fees it collects for the public's use of the Temporary Public Parking Parcel.

4.10. Donation of Lease to Whistlestop. Upon Developer's acquisition of the real property at 648 Lindaro Avenue currently owned by Whistlestop, Developer shall donate to Whistlestop a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

4.11. Additional Obligations. Developer agrees that the following additional obligations shall be imposed on Developer if certain timing milestones, as specified below, are not met:

4.11.1. If Developer has not commenced construction on the first building on the R&D Development Property by the sixth (6th) anniversary of the Effective Date of this Agreement, then Developer shall construct the Class II Bike lane along Lindaro from 3rd to Anderson as described in Section 4.5 above and the improvements to the 2nd and Lindaro intersection as described in Section 4.6 above; and

4.11.2. If Developer has not commenced construction of the second building at the R&D Development Property by the eighth (8th) anniversary of the Effective Date of this

Agreement, then the vesting of the entitlements for the Lindaro Development will expire.

Article 5. Continuing Developer Obligations Relating to the Original SRC Property.

The Parties agree that the following Developer obligations, which were originally imposed by the Vested Approvals of the Existing Development, shall continue to apply to the Existing Development solely on terms and conditions set forth in this Article 5.

5.1. Public Parking on Nights and Weekends. The Existing Development shall continue to make available to the public parking on the western surface parking lot west of Lindaro Street during evening and weekend hours.

5.2. Park Area. The Existing Development shall continue to provide the publicly-accessible park located south of the office campus (south of and between Building A at 750 Lindaro Street and Building B at 781 Lincoln Avenue, and described on Exhibit G attached hereto and made a part hereof (the "Park Area") open to the public from dawn to dusk. The public's use of the Park Area shall be subject to the Reservation Rules and Policies on file with the City.

5.3. Conference Facility. The Existing Development will continue to offer an after business hours publicly accessible, interior conference facility consisting of 2,500 square feet (the "Conference Facility"), provided that, at the sole option of Developer, such facility may be relocated from the current location at the Original SRC Property to a location within the R&D Development Property that provides substantially equivalent amenities and space, as determined by Developer upon completion of the retail and plaza portions of the R&D Development Property. The public's use of the Conference Facility shall be subject to the scheduling, fee, priority use and rules, regulations and guidelines provisions set forth in the Reservation Rules and Policies on file with the City.

Article 6. Future Processing.

6.1. Timely Review of all Submittals Required by Vested Approvals. City shall act in good faith to cooperate with Developer as may be necessary to provide timely review of submittals from Developer which may be required by the Vested Approvals, including those submittals requiring additional review and approval by the City's Design Review Board. The scope of City's review of submittals shall be conducted in accordance with Vested Approvals and this Agreement.

Article 7. Default.

7.1. Events of Default and Notice. Subject to extensions of time as provided herein, material failure or delay by any party to perform any term or provision of this Agreement constitutes a default hereunder. Upon a default under this Agreement, the party claiming such default or

breach shall give the breaching party not less than thirty (30) days' notice, by method described in Section 15.2 of this Agreement, specifying in detail the nature of the alleged default and, when appropriate, the manner in which said default can satisfactorily be cured. During any such thirty (30) day cure period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After proper notice and either: (i) expiration of said thirty (30) day cure period without cure, or (ii) if such cure cannot possibly be completed in a thirty (30) day period but the party charged has not commenced cure or pursued cure with diligent effort during such thirty (30) day period, the party to this Agreement that has given notice of default may, at its option, institute legal proceedings to enforce this Agreement or give notice of intent to terminate this Agreement, pursuant to Development Agreement Legislation. Any determination of default (or any determination of failure to demonstrate good faith compliance as a part of annual review) made by City against any other party hereto, shall be based upon written findings supported by substantial evidence in the record. In no event shall a party be entitled to damages for another party's breach or default under this Agreement.

7.2. No Waiver. Any failure or delay by a party to assert any of its rights or remedies as to any default for a period of not to exceed one (1) year shall not operate as a waiver of any default or of any such right or remedies; nor shall such failure or delay deprive any such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert or enforce any such rights or remedies.

7.3. Judicial Review. Any purported termination of this Agreement for alleged default shall be subject to review in the Superior Court of the County of Marin pursuant to Code of Civil Procedure § 1094.5 (c).

7.4. Default Remedies Limited to Effect. Notwithstanding anything to the contrary herein contained, no default hereunder in performance of a covenant or obligation with respect to any portion of the Property shall constitute a default applicable to any other portion of the Property, and any remedy arising by reason of such default shall apply solely to the Property - Lot or Parcel where the default has occurred. Any liability arising by reason of such default shall be the liability and obligation solely of the owner or owners of the Property - Lot or Parcel where or with respect to which the default has occurred.

7.5. Copies of Default Notices. The owner of any Property- Lot or Parcel shall have the right to request copies of a notice of default given to the owner of any other Property - Lot or Parcel. City, and any owners of other portions of the Property to whom such request has been made, shall honor the same and provide such notice in the manner and to the address specified in the request.

Article 8. Annual Report and Review.

8.1. Annual Review. Good faith compliance by Developer with the provisions hereof, including any payment obligation of Developer, shall be subject to annual review as provided in pertinent Government Code provision relating thereto and in the Development Agreement

Ordinance and Resolution, specifically as set forth in section 601 through 606 of Resolution No. 6089. All references therein to the "Planning Director" shall be interpreted to mean the "Community Development Director".

8.2. Failure to Conduct Review. If City fails by January 1 of any year, either to: (i) commence to conduct the annual review for any calendar year, or (ii) notify Developer in writing of City's determination as to compliance or noncompliance with the terms of this Agreement, then such failure shall constitute an approval of Developer's compliance with the terms hereof for purposes of the annual review to be conducted within said year.

8.3. Annual Report. Commencing with respect to the first anniversary of the Effective Date, and for each anniversary thereafter, upon the City's request, Developer will deliver to the City a written annual report regarding the then-current status of the New Projects and its compliance with the terms and obligations of this Agreement. Each annual report shall be delivered to the City Council within the calendar quarter in which the anniversary of the Effective Date occurs.

8.4. Notice of Compliance. Upon Developer's request, City shall provide a written "Notice of Compliance" in recordable form, duly executed and acknowledged by City, whether City's annual review has resulted in a determination of compliance or compliance is deemed found pursuant to the preceding paragraph. Any person owning a portion of the subject Property shall have the right to record such Notice of Compliance.

Article 9. Permitted Delays.

9.1. Permitted Delays. Performance by any party of its obligations hereunder (other than for payment of money) shall be excused during any period of "Excusable Delay" as hereinafter defined. For purposes hereof Excusable Delay shall include delay beyond the reasonable control of the party claiming the delay (and despite the good faith efforts of such party) including (i) act of God, (ii) civil commotion, (iii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other party to act, (viii) inability of City, after requests by Developer, to hold hearings necessary to take the actions contemplated in Section 6.1 (timely processing) hereof, (ix) delay caused by governmental restrictions imposed or mandated by other governmental entities, (x) enactment of conflicting state or federal laws or regulations, (xi) judicial decisions or similar basis for excused performance; (xii) litigation brought by a third party attacking the validity of this Agreement, any of the approvals, or any permit, ordinance, entitlement or other action necessary for development of the Property or any portion thereof, shall constitute an excusable delay as to the Property or the owner affected; provided, however, that any party claiming delay shall promptly notify the other party (or parties) of any delay hereunder as soon as possible after the same has been ascertained.

Article 10. Cooperation of City.

10.1. Other Governmental Permits.

10.1.1. City Action. City shall cooperate with Developer in its endeavors to obtain any other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Property or portions thereof (such as, for example, but not by way of limitation, public utilities or utility districts and agencies having jurisdiction over transportation facilities and air quality issues) and shall, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency, so long as the action of that nature will not require City to incur any cost, liability or expense without adequate indemnity against or right of reimbursement therefor.

10.1.2. Modification of Development Agreement to Obtain Permits, etc. If permits and approvals required from other agencies necessitate amendments to this Agreement and/or to one or more of the approvals or other approvals granted by City, provided that appropriate findings, supported by substantial evidence, are made in connection with any such modifications, City shall not unreasonably withhold approval of any amendment mandated by conditions of approval imposed by any other governmental agency.

10.2. Estoppel Certificate. Any party may, at any time, and from time to time, (but no more frequently than two (2) times in any calendar year) deliver written notice to any other party hereto requesting such party to deliver to the requesting party an estoppel certificate, substantially in the form of Exhibit H attached hereto and incorporated herein by reference, certifying the matters set forth in such Exhibit and any other information reasonably requested by the requesting party. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. Each party acknowledges that such a certificate may be relied upon by third parties, including, without limitation any prospective purchasers or Mortgagee (as defined below) acting in good faith. A certificate provided by City establishing the status of this Agreement with respect to any Property - Lot or Parcel shall be in recordable form and may be recorded with respect to the affected Property - Lot or Parcel at the expense of the recording party. Failure to deliver such a certificate within the time specified above shall constitute a conclusive presumption against the party failing to provide the certificate that this Agreement is in full force and effect, without modification, except as may be represented by the requesting party, that there are no uncured defaults in the performance of either party except as may be so represented, and such other matters as may have been requested by the requesting party.

Article 11. Mortgagee Protection, Certain Rights of Cure.

11.1. Mortgagee Protection. This Agreement shall be superior and senior to any lien encumbering the Property, or any portion thereof, after the date of recording

this Agreement (other than liens to secure taxes and assessments levied to raise funds for construction of improvements or for other public purposes), including the lien of any deed of trust or mortgage ("Mortgage"), or any lease of all or any portion of the Property. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage or any such lease made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary, mortgagee, or landlord under any such lease ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise. The terms hereof shall be binding upon and effective against any person or entity that acquires title to the Property, or any portion thereof, by foreclosure of or sale under any assessment lien levied by City to raise funds for construction of improvements or for other public purposes.

11.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 11.1 above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement; and provided further, however, that the purchaser or successor to any such Mortgagee shall not be relieved of any such construction obligations, all of which shall immediately reattach upon conveyance by such Mortgagee.

11.3. Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default that may be given to any party hereunder and specifying the address for service thereof, the City shall deliver to such Mortgagee, concurrently with service thereon to such other party, any notice given to such other party. Each Mortgagee shall have the right during the same period available to such other party to cure or remedy, or to commence to cure or remedy, any event of default claimed or any areas of noncompliance set forth in City's notice; however if a Mortgagee has commenced foreclosure the time to cure or remedy shall be extended by sixty (60) days.

Article 12. Transfers; Successors.

12.1. Transfer.

12.1.1. Prior to issuance of a certificate of completion of construction as provided in Article 13 of this Agreement, for the three (3) buildings contemplated for the New Projects, any Transfer by Developer of any of the parcels that make up the New Projects to any Person shall be subject to the following conditions:

- (i) a Transfer to an Affiliate shall be at the sole discretion of Developer. Developer shall submit to City for City's information and verification, reasonably satisfactory evidence that any such transferee satisfies the definition of Affiliate; and

- (ii) a Transfer to any other Person shall be subject to the reasonable approval by City; provided, that, the City shall grant approval to all of the proposed Persons that satisfy the definition of Substitute Developer set forth in Section 1.18 of this Agreement.

12.1.2. Following issuance of a certificate of completion of construction, as provided in Article 13 of this Agreement for the three (3) buildings contemplated for the New Projects, any Transfer from Developer of any of the parcels that make up the New Projects shall be at Developer's sole discretion.

12.2. Release upon Transfer. Upon Transfer, in whole or in part, of Developer's rights and interests under this Agreement under Section 12.1 above, Developer shall be released from all obligations with respect to the Property - Lot or Parcel so Transferred, so long as said Transfer was in compliance with Section 12.1 above and the Transferee assumes all of Developer's then-remaining obligations.

12.3. Amendment Request by Owner of Property- Lot or Parcel. No owner of less than all of the Property shall have the right to seek or consent to amendment of the terms hereof, to terminate this Agreement or enter into an agreement to rescind any provisions hereof in a manner that is binding upon or affects any of the Property other than that Property - Lot or Parcel which is owned in fee simple by said owner. Any owner of less than all of the Property may, however, seek and consent to an amendment to this Agreement if and to the extent that such amendment would affect only the Property - Lot or Parcel owned by such owner. City's review of such an amendment to this Agreement shall be limited to consideration of the proposed modification solely as it relates to the Property - Lot or Parcel directly impacted by the modification or as it relates to the specific obligations of the person, firm or entity that owns the land affected by such modification. No unrelated amendments shall be entertained, or conditions imposed by City as a condition to approving such a proposed amendment.

12.4. Successors. The burdens and benefits of this Agreement shall bind and inure to the benefit of all the successors-in-interest of the parties. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entity acquiring the Property, or any Property - Lot or Parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Section 1468 of the Civil Code of the State of California. Each covenant to do or refrain from doing some act on the Property hereunder, or with respect to any City owned property or property interest, (i) is for the benefit of such properties and is a burden upon such property (ii) runs with such properties, and (iii) is binding

upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each party and its property hereunder, and each other person or entity succeeding to an interest in such properties.

12.5. No Third Parties Benefited. No third party that is not a party hereto or a successor or assign of a party hereto, may claim the benefits of any provision hereof; and any third party so benefited in fact shall have no rights greater than those that would be held by any member of the public affected by such actions or enactments without regard to this Agreement.

Article 13. Release of Development Agreement Obligations As to Developed Portions of Subject Property.

13.1. Statement of Purpose. The parties desire to provide for the certification and discharge of the obligations of this Agreement upon the development of any Property - Lot or Parcel in accordance with this Agreement, so that City and any purchaser or encumbrancer or both of any such portion of the Property need not be concerned with any of the obligations herein contained other than those made pertinent to such Property - Lot or Parcel as a condition of a final subdivision map or parcel map creating the same.

13.2. Certification. Following the completion of the development of any Property - Lot or Parcel in accordance with this Agreement, any party hereto may request in writing that the other certify that such development is complete in accordance with the provisions of this Agreement and that no further obligations of requesting party or City remain to be performed under this Agreement with respect to such Property - Lot or Parcel. Such certificate shall be in a form reasonably acceptable to requesting party and City and shall be promptly executed and acknowledged to permit recordation.

Article 14. Project is Private Undertaking, Not Joint Venture or Partnership.

14.1. Project is a Private Project. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between City and Developer. The New Projects proposed to be undertaken by Developer on the Property is a private development. Except for that portion thereof to be devoted to public improvement to be constructed by Developer in accordance with the Vested Approvals, City has no interest in, responsibility for or duty to third persons concerning any of said improvements; and Developer shall exercise full dominion and control over the Property, subject only to the limitations and obligations of Developer contained in this Agreement.

14.2. Indemnifications.

14.2.1. Developer shall hold and save City harmless and indemnify it for and from any and all loss, cost, damage, injury or expense, arising out of or in any way related to injury to, or death of, persons or damage to property that may arise by reason of the

physical development of the Property pursuant to this Agreement; provided, however, that the foregoing indemnity shall not include indemnification against (i) suits and actions brought by Developer by reason of City's default or alleged default hereunder, or (ii) suits and actions caused solely by or resulting solely from City's acts or omissions, or (iii) suits and actions arising from the sole negligence or willful misconduct of City; provided further, however, that the foregoing indemnity shall not apply to claims pertaining to ownership and operation of those portions of the Property dedicated to City arising from and after the dedication thereof.

14.2.2. Developer agrees to defend, indemnify, release and hold harmless City, its agents, officers, attorneys, employees, boards, and commissions from any claim, action, or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this Agreement, any development applications granted to Developer and listed in Section 1.20 hereinabove.

Article 15. General Provisions.

15.1. Amendment Procedures. This Agreement may be amended in the manner provided by pertinent provisions of the Government Code and in the Development Agreement Legislation and the Development Agreement Ordinance and Resolution.

15.2. Notices, Demands and Communications. Formal written notices, demands, correspondence and communications regarding the content of this Agreement shall be sufficiently given if personally served or mailed, postage prepaid, by overnight, registered or certified mail, with return receipt requested, to the following:

To City: City of San Rafael
1400 Fifth Avenue
San Rafael, California 94901
Attn: City Manager
Phone: (415) 485-3070
Fax: (415) 459-2242

With copy to: City Attorney's Office

To Developer: California Corporate Center Acquisition LLC
105 Digital Drive
Novato, CA 94949
Attn.: G. Eric Davis, Manager
Phone: _____
Fax: _____

With a copy to:

Monchamp Meldrum LLP
50 Francisco Street, Suite 450
San Francisco, CA 94133
Attn.: Amanda Monchamp
Phone: (415) 704-8810
Fax: (415) 800-1621

Notice may also be given by telephone facsimile to the telephone numbers given above, with a confirming copy of the facsimile communication mailed on the same day as above provided. Notices and demands shall be effective upon receipt. Such written notices, demands, correspondence and communications may be sent in the same manner to such other persons and addresses as either party may from time-to-time designate by notice as provided in this section and the foregoing addresses may be changed by notice given as herein provided.

15.3. Recordation. Pursuant to the Development Agreement Legislation, within ten (10) days following the date that Ordinance _____ becomes effective, the parties shall record this Agreement. For purposes of recording, a legal description of the Property subject to this Agreement is attached hereto as Exhibits A-1 and C-1. The cost of recording shall be borne by Developer.

15.4. Severability. If any provision of this Agreement is held invalid, void or unenforceable but the remainder of this Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified. If any material provision of this Agreement is held invalid, void or unenforceable, however, the owner of any Property - Lot or Parcel affected by such holding shall have the right in its sole and absolute discretion to terminate this Agreement as it applies to the Property - Lot or Parcel so affected, upon providing written notice of such termination to City.

15.5. Interpretation. To the maximum extent possible, this Agreement shall be construed to provide binding effect to the Vested Approvals, to facilitate use of the Property as therein contemplated and to allow development to proceed upon all of the terms and conditions applicable thereto, including, but without limitation, public improvements to be constructed and public areas to be dedicated.

15.6. Incorporation of Exhibits. The Exhibits referred to in this Agreement are incorporated herein by reference, as though set forth in full.

15.7. Construction. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity be construed against a drafting party shall apply to interpretation or enforcement hereof.

15.8. Applicable Law/Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by any party claiming a breach of this Agreement or to enforce any provision of this Agreement, or to obtain a declaration of rights hereunder, the prevailing party shall be entitled to reasonable attorneys' fees (including reasonable in-house counsel fees of City at private rates prevailing in Marin County for outside litigation counsel to City), court costs and such other costs as may be fixed by the Court.

15.9. Compliance with the Second Amended 1998 DA. The City and Developer each hereby acknowledge, represent and warrant to the other that, as of the date of this Agreement, neither the City nor Developer is in default under the Second Amended 1998 DA. The City hereby acknowledges, agrees and confirms that as of the date of this Agreement, Developer has completed the development permitted by the Second Amended 1998 DA and satisfied all conditions and complied with all obligations, including, without limitation, payment obligations or public improvement obligations, required to be satisfied, fulfilled, complied with, or paid by Developer under the Second Amended 1998 DA, except for those obligations that will continue under Article 5 of this Agreement. Without limiting the foregoing, the City confirms that all of the obligations of Developer (or any predecessor of Developer) under Article 5 of the Second Amended 1998 DA, including, without limitation, any payment obligations, have been satisfied and completed in full.

15.10. Counterparts. This Amendment may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

CITY OF SAN RAFAEL

APPROVED AS TO FORM:

By: _____
[Mayor] [Vice-Mayor]

By: _____
City Attorney

ATTEST

By: _____
City Clerk

CALIFORNIA COPORATE CENTER
ACQUISITION, LLC, a Delaware limited
liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT BY NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
) ss.:
COUNTY OF _____)

On _____, before me, _____, NOTARY PUBLIC, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
My Commission Expires _____

ACKNOWLEDGMENT BY NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
) ss.:
COUNTY OF _____)

On _____, before me, _____, NOTARY PUBLIC, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
My Commission Expires _____

ACKNOWLEDGMENT BY NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
) ss.:
COUNTY OF _____)

On _____, before me, _____, NOTARY PUBLIC, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
My Commission Expires _____

EXHIBIT A-1

Legal Description of Original SRC Property

“Western Parcel”
(APN 13-012-12)
Reference: PARCEL TWO

A portion of that certain parcel of land described in the deed from F. M. Neely and Sara Neely, his wife, to PG&E recorded December 12, 1922 in Volume 11 of Official Records at page 209, Marin County Records and being more particularly described as follows:

Beginning at the intersection of the southerly boundary line of the city street known as Second Street, with the westerly boundary line of the city street known as Lindaro Street and running thence along said westerly boundary:

(1) south 06°45'00" west 299.22 feet; thence
(2) south 08°53'00" west 405.54 feet
to a point in the northerly boundary line of the Northwestern Pacific Railroad Right of Way;
thence along said northerly boundary line
(3) north 54°38'00" west 396.88 feet;
thence leaving said northerly boundary line
(4) north 06°38'05" east 238.95 feet; thence
(5) south 83°33'00" east 241.53 feet
to a point herein for convenience called Point "A"; thence
(6) north 06°38'05" east 273.54 feet
to a point in the southerly boundary line of said Second Street, thence running along said
southerly boundary line
(7) south 83°33'00" east 123.00 feet, more or less,
to the point of beginning.

The bearings used are based on the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records.

Reserving therefrom the following easements over and across those certain portions of the Parcel Two:

1. The "Exclusive Gas Meter Easement";
2. The "Nonexclusive Gas Meter Easement";

3. The "West Parcel Slurry Wall Easement";
4. The "Area 5A Extraction Trench Easement";
5. The "Area 5B Extraction Trench Easement"; and
6. The "West Parcel Electric Facilities Easement";

which are more particularly described as follows:

Exclusive Gas Meter Easement

Beginning at a point in the easterly boundary line of the parcel of land hereinbefore described and designated PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of said PARCEL TWO bears south 08°53'00" west 329.67 feet; thence leaving said easterly boundary line:

- (1) north 81°07'00" west 30.00 feet; thence
- (2) north 08°53'00" east 30.00 feet; thence
- (3) south 81°07'00" east 30.00 feet

to a point in said easterly boundary; thence along said easterly boundary line

- (4) south 08°53'00" west 30.00 feet

to the point of beginning.

Nonexclusive Gas Meter Easement

Beginning at the southwest corner of the parcel of land hereinbefore described and designated Exclusive Gas Meter Easement and running thence

- (1) north 81°07'00" west 20.00 feet; thence
- (2) north 08°53'00" east 50.00 feet; thence
- (3) south 81°07'00" east 50.00 feet; more or less,

to a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street; thence along said easterly boundary line

- (4) south 08°53'00" west 20.00 feet

to the northeast corner of said Exclusive Gas Meter Easement; thence along the northerly boundary line of said Exclusive Gas Meter Easement

- (5) north 81°07'00" west 30.00 feet

to the northwest corner of said Exclusive Gas Meter Easement; thence along the westerly boundary line of said Exclusive Gas Meter Easement

- (6) south 08°53'00" west 30.00 feet

to the point of beginning.

West Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the general northerly boundary line of said PARCEL TWO, southerly to the southwesterly boundary line of said PARCEL TWO and lying 10 feet on each side of the line described as follows:

Beginning at a point in the general northerly boundary line of said PARCEL TWO, from which said Point "A" bears south 83°33'00" east 216.93 feet; thence leaving said general northerly boundary line

- (1) south 06°29'15" west 206.97 feet; thence
- (2) on a tangent curve to the left with a radius of 100.00 feet and tangent at the northerly terminus thereof to the preceding course, an arc distance of 58.23 feet, more or less, to a point in the southwesterly boundary line of said PARCEL TWO.

Area 5A Extraction Trench Easement

Beginning at said Point "A" and running thence along the general westerly boundary line of said PARCEL TWO

- (1) north 06°38'05" east 273.54 feet
- to a point in the northerly boundary line of said PARCEL TWO, being also the southerly boundary line of said Second Street, thence along said northerly boundary line

- (2) south 83°33'00" east 19.63 feet; thence
- leaving said northerly boundary line
- (3) south 05°41'35" west 457.82 feet; thence
 - (4) north 84°18'25" west 27.16 feet; more or less,
- to a point in the southerly prolongation of the general westerly boundary line of said PARCEL TWO; thence
- (7) north 06°38'05" east 184.60 feet, more or less, to the point of beginning.

Area 5B Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending westerly from the easterly boundary of said PARCEL TWO, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of PARCEL TWO bears south 08°53'00" west 157.56 feet; thence leaving said easterly boundary line

- (1) north 80°40'14" west 135.97 feet
- to a point within the boundary lines of PARCEL TWO.

West Parcel Electric Facilities Easement and the Substation Access Easement

That portion of said PARCEL TWO lying westerly and southwesterly of a line described as follows:

Beginning at said Point "A" and running thence along the southerly prolongation of the general westerly boundary line of said PARCEL TWO

(1) south 06°38'05" west 269.32 feet; thence

(2) south 54°38'00" east 125.95 feet, more or less,

to a point in the easterly boundary line of said PARCEL TWO.

"CENTRAL PARCEL"
(APN 13-021-10)

Reference: PARCEL ONE

The 8.280 acre parcel of land as shown upon the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records. Reserving therefrom the following easements over and across those certain portions of the Parcel One:

- A. The "Central Parcel Slurry Wall Easement";
- B. The "Central Parcel Extraction Trench Easement"; and
- C. The "Central Parcel Electric Facilities Easement";

which are more particularly described as follows:

Central Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the westerly boundary line of the parcel of land hereinbefore described and designated PARCEL ONE easterly and northerly to the northerly boundary line of said PARCEL ONE and lying 10 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which a rebar and cap stamped "LS 4545", herein for convenience called Point "B", accepted as marking the northeasterly terminus of a course in the westerly boundary line of the 8.280 acre parcel of land as shown upon said Record of Survey filed for record May 10, 1985, which course

as shown upon said map has a bearing of S8°53' W and a length of 421.24 feet, bears north 08°53'00" east 364.35 feet; thence leaving said westerly boundary line

- (1) south 76°44'52" east 70.89 feet; thence
- (2) south 84°17'14" east 32.74 feet; thence
- (3) south 79°31'32" east 111.67 feet; thence
- (4) south 76°52'26" east 104.19 feet; thence
- (5) north 87°55'06" east 104.33 feet; thence
- (6) north 62°01'36" east 31.14 feet; thence
- (7) north 46°27'46" east 23.10 feet; thence
- (8) north 33°08'08" east 12.71 feet; thence
- (9) north 19°37'58" east 36.67 feet; thence
- (10) north 00°14'58" east 46.69 feet; thence
- (11) north 10°10'31" west 41.35 feet; thence
- (12) north 06°57'47" west 97.03 feet; thence
- (13) north 04°56'07" west 42.24 feet; thence
- (14) north 03°58'51" east 124.15 feet; thence
- (15) north 09°00'19" east 35.36 feet; thence
- (16) north 08°34'17" east 106.14 feet; thence
- (17) north 07°26'47" east 107.63 feet, more or less,

to a point in the northerly boundary line of said PARCEL ONE.

Central Parcel Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending easterly from the westerly boundary line of said PARCEL ONE, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which Point "B" bears north 08°53'00" east 249.70 feet; thence leaving said westerly boundary line

- (1) south 80°42'05" east 14.39 feet; thence
- (2) south 79°43'14" east 64.83 feet

to a point within the boundary lines of PARCEL ONE.

Central Parcel Electric Facilities Easement

That portion of said PARCEL ONE, lying easterly and southerly of the general easterly boundary line of the strip of land hereinbefore described and designated Central Parcel Slurry Wall Easement.

“EASTERN PARCEL”
(APN 13-021-19)

All that certain real property situate in the City of San Rafael, County of Marin, State of California, described as follows:

PARCEL ONE:

BEGINNING at a point in the Southerly line of Second Street distant 496.5 feet Easterly from the point of intersection of the said Southerly line of Second Street with the Easterly line of Lindaro Street; thence running Easterly along said line of Second Street 140.1 feet to the Southerly line of the San Rafael and San Quentin Turnpike or Toll Road, now known as Francisco Boulevard; thence Southerly and Easterly along said line of said Turnpike 90 feet; thence leaving said Turnpike and running South $14^{\circ}59'$ West 153.5 feet; thence North $38^{\circ}4'$ West 278.3 feet to the point of beginning.

EXCEPTING THEREFROM all that portion thereof lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL TWO:

BEGINNING at the point of intersection of the Southerly line of Second Street, with the Easterly line of Petaluma Avenue (now known as Lincoln Avenue); thence Easterly along the Southerly line of Second Street $\frac{6}{10}$ of a foot to the most Westerly corner of that certain lot or parcel of land which was conveyed by John W. Mackay and James L. Flood to the City of San Rafael, by Deed dated June 5, 1893 and recorded in Book 26 of Deeds at Page 238, Marin County Records; thence along the Southwesterly line of said lot, South $38^{\circ}04'$ East 278.3 feet to the most Southerly corner of said lot; thence along the Easterly line of said lot, North $14^{\circ}59'$ East 153.6 feet to the Southerly line of the Toll Road; thence Easterly along the Southerly line of the Toll Road 6.6 feet to the Westerly bank of the said tidal canal South $11^{\circ}43'$ West 289 feet; thence continuing along said Westerly bank on the arc of a circle having a radius of 441.7 feet, 462.3 feet to the said Easterly line of Petaluma Avenue; thence Northerly along the said Easterly line of Petaluma Avenue 702.8 feet to the point of beginning.

EXCEPTING THEREFROM all that portion thereof as contained in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 608, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof described as follows:

A STRIP OF LAND, 10 feet in width, lying Southeasterly of and contiguous to the Southeasterly boundary of that certain parcel of land described in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 508, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL THREE

AN EASEMENT for sanitary sewer purposes described as follows:

A STRIP of land of the uniform width of 20 feet, the centerline of which is described as follows:

COMMENCEMENT at a point on the Easterly line of Lindaro Street at the Intersection of two courses bearing South 7° 15' West and South 8° 15' West, as said courses are shown upon that map entitled, "Map of a Portion of Lindaro Street, City of San Rafael, Marin County, California", filed for record March 2, 1937 in Volume 2 of Official Surveys, at Page 83, Marin County Records; thence North 8° 53' East 32.92 feet to the true point of beginning; thence Southeasterly perpendicular to the aforementioned Easterly line, 315.00 feet; thence along a tangent curve to the left, through a central angle of 51° 00' 00" having a radius of 215.00 feet, an arc distance of 191.37 feet; thence North 47° 53' East 70 feet, more or less, to the termination of the easement and also the Westerly line of Lincoln Avenue, described as an arc 194.78 feet long in a Deed from the City of San Rafael to the Pacific Gas and Electric Company, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, Marin County Records.

PARCEL FOUR

That certain real property situate in the City of San Rafael, County of Marin, State of California, more particularly described as follows:

COMMENCING at the intersection of the southerly line of Second Street with the easterly line of Lincoln Avenue, said point being located South 50°10'00" East 0.32 feet from a lead plug and tag RE5561 set in a concrete sidewalk, and as shown on the Record of Survey Map filed May 10, 1985 in Book 20 of Surveys at Page 47, Marin County Records;

thence along said southerly line of Second Street South 83°33'00" East 140.70 feet to the southwesterly line of Francisco Boulevard;

thence leaving the southerly line of Second Street and along said southwesterly line of Francisco Boulevard, South 51°37'29" East 98.68 feet to the westerly line of Parcel 4, conveyed to the San Rafael Redevelopment Agency by deed recorded October 30, 1997, in Document No. 97-062019;

thence along said westerly line South 11°32'07" West 95.76 feet to the True Point of Beginning;

thence continuing along said westerly line South 11°32'07" West 189.48 feet;

thence on a curve to the right tangent to the preceding course having a radius of 441.70 feet through a central angle of 36°01'12", an arc length of 277.68 feet to the easterly line of aforementioned Lincoln Avenue;

thence along said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 60°08'08" East 473 feet, through a central angle of 01°17'20", an arc length of 10.64 feet;

thence leaving said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 31°36'30" West, a distance of 315.00 feet, through a central angle of 50°24'27", an arc length of 277.13 feet;

thence North 12°06'01" East 102.01 feet;

thence North 06°19'27" East 109.66 feet;

thence leaving the westerly line of said tidal slough North 80°50'15" West 13.96 feet to the Point of Beginning.

Said Parcel contains an area of 0.24 acres, more or less.

EXHIBIT A-2

Depiction of Existing SRC Development



EXHIBIT B

Legal Description of 999 3rd Street Property

PARCEL 1 (2402-06-0520)

The parcel of land conveyed by Allan Lee and others to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated March 22, 1888 and recorded in Book 7 of Deeds at page 532, Marin County Records, and therein described as follows:

“BEGINNING at the Northwesterly corner of lot number One (1) in block number forty one (41) as the same is marked shown and numbered on the Plat of the Town Site of the Town of San Rafael made by Hiram Austin and filed in the office of the County Recorder of said County of Marin on the 14th day of October 1873 running thence easterly along said southerly line of Third Street as shown on said plat two hundred (200) feet, thence at right angles southerly One hundred and fifty (150) feet, thence at right angles Westerly parallel with the southerly line of Third Street two hundred (200) feet to the easterly line of a Street marked on said plat, thence Northerly along the Easterly line of said last mentioned street one hundred and fifty (150) feet to the point of beginning.”

PARCEL 2 (2402-06-0526)

The parcel of land conveyed by Will Brooks to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated November 10, 1893 and recorded in Book 28 of Deeds at page 88, Marin County Records, and therein described as follows:

“COMMENCING at a point on the South side of Third Street distant one hundred and ninety five 4/12 feet Easterly from A Street thence running South at right angles to Third Street three hundred and eight feet to Second Street one hundred and ninety five 4/12 feet east from A Street thence running Easterly along Second Street one hundred and Sixty eight feet thence North by West to a point distant three hundred and ten 4/12 feet from A Street Easterly and one hundred and eighty one feet South from Third Street thence North in a line parallel to A Street one hundred and eighty one feet to Third Street thence West along Third Street one hundred and fifteen feet to the place of beginning.”

EXCEPTING THEREFROM that portion thereof described in the deed from Pacific Gas and Electric Company to the City of San Rafael recorded April 10, 1912 in Book 142 of Deeds at page 439, Marin County Records.

PARCEL 3 (2402-06-0525)

The parcel of land conveyed by Edward B. Mahon to the San Rafael Gas and Electric light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated December 6, 1899 and recorded in Book 58 of Deeds at page 210, Marin County Records, and therein described as follows:

“BEGINNING at the South West corner of the lot occupied by the San Rafael Gas & Electric Light Company’s gas works said point being on the East line of Court Street and distant 150 feet South

Exhibit B

from the South line of Third Street thence from said beginning point, running S. 6 3/4° W. along the East line of Court Street (150) One hundred and fifty feet, thence Easterly, parallel with Third Street (300) Three hundred feet, to the West line of a Street called Lindaro Street, thence North along the West line of Lindaro Street (150) One hundred & fifty feet to the North boundary line of Lot 2 in Block 41, as per Map of Town site of the Town of San Rafael filed Oct. 14th 1873 in the County Recorder's Office of said Marin County, running thence Westerly along said boundary line (300) three hundred feet to the point of beginning."

PARCEL 4 (2402-06-0523)

The parcel of land conveyed by the City of San Rafael to Pacific Gas and Electric Company by deed dated November 22, 1910 and recorded in Book 132 of Deeds at page 279, Marin County Records, and therein described as follows:

"Commencing at a point formed by the intersection of the southerly line of Third Street with the westerly line of Court Street, and running thence easterly and along said line of Third Street sixty-six (66) feet, more or less, to the easterly line of Court Street, thence at a right angle southerly and along said easterly line of Court Street three hundred and ten (310) feet, more or less, to the northerly line of Second Street, thence at a right angle westerly and along said last mentioned line sixty-six (66) feet, more or less, to the westerly line of Court Street, and thence northerly and along said last mentioned line three hundred and ten (310) feet, more or less, to the southerly line of Third Street and the point of commencement."

PARCEL 5 (2402-06-0524)

The parcel of land conveyed by Peter Williams and Emma Williams to Pacific Gas and Electric Company by deed dated June 17, 1911 and recorded in Book 136 of Deeds at page 174, Marin County Records, and therein described as follows:

"Commencing at the intersection of the south line of Third Street with the west line of Lindaro Street and running thence westerly along the south line of Third Street one hundred feet, thence southerly parallel with Lindaro Street one hundred and fifty feet; thence at right angles easterly one hundred feet to the west line of Lindaro Street, thence northerly along the said west line of Lindaro Street one hundred and fifty feet to the place of commencement."

EXHIBIT C

Depiction of R&D Development Property



EXHIBIT D

Master Fee Schedule

Building Permit Fees

Valuation	Current Fee Schedule
Up to \$2,000	\$104
\$2,001 to \$25,000	\$104.00 for the first \$2,000 plus \$21.00 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
\$25,001 to \$50,000	\$580.00 for the first \$2,000 plus \$14.70 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
\$50,001 to \$100,000	\$958.00 for the first \$2,000 plus \$10.50 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
\$100,001 to \$500,000	\$1477.00 for the first \$2,000 plus \$8.40 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
\$500,001 to \$1,000,000	\$4711.00 for the first \$2,000 plus \$7.35 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
Greater than \$1,000,000	\$8176.00 for the first \$2,000 plus \$4.20 for each additional \$1,000 or fraction thereof, up to and including \$25,000.00
Plan Checking Fees	65% of permit fee
Energy Plan Review	10% surcharge for State mandated energy check
Additional plan review required by changes, additions, or revisions to approved plans	Staff time at FBHR; 1 hour minimum
Inspections outside normal business hours	Staff time at FBHR; 2 hour minimum
Re-inspection fee per CBC Section 108.8	Staff time at FBHR; 1 hour minimum

*State mandated surcharges will be added to the building permit fees pursuant to state law as follows, or as state law may hereafter be amended:

\$4 for every \$100,000 valuation (minimum of \$1 regardless of valuation).

10% of surcharge retained by City for administrative costs, code enforcement education, etc., per statute.
(Health & Safety Code Section 18931.6)

0.013% (\$13 per \$100,000) of valuation for residential occupancies of no more than 3 stories

0.028% (\$28 per \$100,000) of valuation for all other occupancies

5% of surcharge retained by the City for data utilization, seismic mapping, etc.; per statute.
(Public Resources Code Section 2705)

Grading Permit Related Fees

		<u>Current Fee</u>
Grading Plan review (based on cubic yards of earth moved)		
	less than 1,000 cu. yds	\$63
	1,000 to 10,000 cu. yds.	\$240
	10,000 to 100,000 cu yds.	\$240, plus \$25.00 ea addn'l 10,000 cu yds
	100,000 to 200,000 cu yds	\$465, plus \$15.00 ea addn'l 10,000 cu yds
Grading Inspections (based on cubic yards of earth moved)		No Change

Miscellaneous Building Plan Review/Inspection Fees

Fee for making Xerox copies for the public: \$0.50 per sheet

Plan Retention Fee (formerly Microfilm fee)

Large format drawings (plans):
 \$4.50 first sheet plus
 \$1.50 each addnl. sheet

Small sheets (8 1/2 x 11):
 \$3.00 first sheet plus
 \$.15 each addnl. sheet

Current Fee

Residential Building Reports

SFRs: \$290.00
 Condos: \$255.00
 Apartments: \$270.00 for first unit plus \$30 ea. addnl.

Electrical Permit Fees

	Current	Proposed
New Residential Construction/Addition		
Multi Family	.065/sqft.	.068/sqft.
Single Family	.073/sqft.	.077/sqft.
Swimming Pools	\$64.50	\$67.70
Photovoltaic Systems-Residential	\$161.50	\$169.50
Photovoltaic Systems-Commercial	\$922.50	\$968.60
Carnivals & Circuses		
Generators, electric rides	\$30.50	\$32.00
Booths each	\$9.50	\$10.00
Temporary Power pole	\$30.50	\$32.00
Temp. lighting, Christmas tree lots	\$16.00	\$16.80
Unit fee schedule		
Outlets: Plugs, switches		
first 20	\$1.50	\$1.60
each additional	\$1.00	\$1.05
Fixtures:		
first 20	\$1.50	\$1.60
each additional	\$1.00	\$1.05
Pole lights	\$1.50	\$1.60
Appliances < 1 (hp) (kw) (kva)		
Residential	\$6.00	\$6.30
Non-residential	\$6.00	\$6.30
Power Apparatus (HP or KW)		
Up to 1	\$6.00	\$6.30
Over 1 and not over 10	\$16.00	\$16.80
Over 10 and not over 50	\$32.00	\$33.60
Over 50 not over 100	\$64.50	\$67.70
Over 100	\$97.00	\$102.00
Busways 100 ft or fraction	\$9.50	\$10.00
Signs, one circuit	\$32.00	\$33.60
Circuit or subfeed	\$23.50	\$24.70
Services:		
< 600v, up to 200A	\$35.50	\$37.25
< 600v, 200A to 1000A	\$72.00	\$75.60
> 600v or over 1000A	\$144.50	\$151.70
Addnl. Meters (ea)	\$9.50	\$10.00
Miscellaneous Apparatus/panels	\$23.50	\$24.70
Special Inspection/Investigation or reinspect	FBHR	FBHR
Permit Fee		
Normal	\$30.50	\$32.00
Supplemental	\$9.50	\$10.00
Minimum	\$102.00	\$125.00

Operational Fire Permits***Fee**

Operational Fire Permits*	Fee
Aerosol Products	\$240
Amusement Buildings	\$240
Aviation Facilities	\$240
Carnivals and Fairs	\$240
Cellulose Nitrate Film	\$240
Combustible Dust-Producing Operations	\$240
Combustible Fibers	\$240
Compressed Gases	\$240
Covered Mall Buildings	\$240
Cryogenic Fluids	\$240
Cutting and Welding	\$240
Dry Cleaning Plants	\$240
Exhibits and Trade Shows	\$240
Explosives	\$240
Blasting	\$240 first blast and \$150 each additional blast
Fire Hydrants and Valves	\$240
Flammable and Combustible Liquids	\$240
Floor Finishing	\$240
Fruit and Crop Ripening	\$240
Fumigation and Thermal Insecticidal Fogging	\$240
Hazardous Materials	\$240
HPM Facilities	\$240
High-piled Storage	\$240
Hot Work Operations	\$240
Industrial Ovens	\$240
Lumber Yards and Woodworking Plants	\$240
Liquid-or Gas-fueled Vehicles or Equipment in Assembly Buildings	\$240
LP-gas	\$240
Magnesium	\$240
Miscellaneous Combustible Storage	\$240
Open Burnings	\$240
Open Flames and Torches	\$240
Open Flames and Candles	\$240
Organic Coatings	\$240
Places of Assembly	\$240
Private Fire Hydrants	\$240
Pyrotechnic Special Effects Material	\$240
Public Fireworks Displays	\$770
Pyroxylin Plastics	\$240
Refrigeration Equipment	\$240

Repair Garages and Motor Fuel-Dispensing Facilities	\$240
Rooftop Heliports	\$240
Spraying or Dipping	\$240
Storage of Scrap Tires and Tire Byproducts	\$240
Temporary Membrane Structures and Tents	\$240
Tire-Rebuilding Plants	\$240
Waste Handling	\$240
Wood Products	\$240
Other Special Hazard Operations or Use	\$240

*Multiple Operational Permits

First permit at full price,
each additional at 50% of schedule above

Construction Fire Permits**

Fee

Automatic fire-extinguishing systems	\$300 per system
Fire sprinkler system single family dwelling	\$300 plus \$4.00 per sprinkler
Fire sprinkler system with 10 sprinklers or less	\$300 plus \$4.00 per sprinkler
Fire sprinkler system with 11 sprinklers or more	\$450 plus \$4.00 per sprinkler
Backflow Preventer Assembly	\$150
Battery Systems	\$300
Compressed Gases	\$300
Emergency Response Radio Coverage System	\$300
Fire Alarm and Detection Systems and Related Equipment	\$300 plus \$4.00 per device
Fire Pumps and Related Equipment	\$450
Flammable and Combustible Liquids	\$300 for the first tank and \$150 each additional tank
Hazardous Materials	\$300
Industrial Ovens	\$300
LP-Gas	\$300
Private Fire Hydrant	\$150
Spraying or Dipping Process	\$300
Standpipe System	\$300
Temporary Membrane Structures and Tents	\$300
Underground Fireline	\$300
Vegetation Management Fire Protection Plan	\$300
Work (repair, replacement, relocation)	\$50

** Fee includes permit, plans review and inspection services

Other Fire Prevention Services	Fee
Consultation Plans review Inspection Reinspection Investigation for performing work without an approved permit Inspections outside normal work hours: Early or late inspections on normal work days Call back or weekend inspections Fire/Smoke damper inspection Fire hydrant flow test and report	FBHR - min 1 hour FBHR - min 1 hour FBHR - min 1 hour FBHR - min 1 hour 2 x normal permit fee + permit fee FBHR x # of hours x 1.5 - min 1 hour FBHR x # of hours x 1.5 - min 4 hour \$150 for up to 4 dampers and \$40 for each additional damper \$200.00
SFM Fire Clearance Inspection	Fee
Fire clearance inspection	\$150
Commercial Life/Safety Inspection	Fee
Bi-annual inspection of commercial business	See Exhibit E2

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

01	GENERAL SERVICES	SERVICE DESCRIPTION	CHARGE
	01.01	BAD CHECK CHARGES	
		01.01.10	NSF CHECK PROCESSING \$ 25.00 (INCLUDES BANK PROCESSING FEE)*
	01.02	BUSINESS LICENSES	
		01.02.10	BUSINESS APPLICATION REVIEW \$ 88.00 HOME OCCUPATION* \$ 118.00 COMMERCIAL LOCATION* \$ 98.00 IN TOWN MOVING FEE (TO COMMERCIAL)* \$ 68.00 IN TOWN MOVING FEE (TO RESIDENTIAL)* \$ 10.00 FOR CHANGE OF OWNERSHIP*
		01.02.12	REGULATORY LICENSE PROCESSING – TOBACCO, GUN SALES \$ 99.00 FOR POLICE PERMIT* \$ 99.00 FOR POLICE PERMIT RENEWAL* \$ 48.00 FOR TOBACCO PERMIT* \$ 3.00 FOR TOBACCO RENEWAL*
		01.02.15	BUSINESS LICENSE LISTING \$ 12.00 EACH
		01.02.20	CLOSING OUT SALE PERMIT \$ 39.00 INITIAL \$ 25.00 RENEWAL
		01.02.25	PAYMENT PLAN PROCESSING \$ 35.00*
	01.03	AGENDA FEES	
		01.03.10	AGENDA SUBSCRIPTION SERVICE \$ 74.00
		01.03.20	MINUTES SUBSCRIPTION SERVICE \$ 74.00
	01.04	REPRODUCTION WORK	
		01.04.20	XEROX COPIES \$.10 PER PAGE – FPPC* \$.15 PER PAGE – OTHER PUBLIC DOCUMENTS*
		01.04.30	BOUND REPORTS ESTABLISHED AT TIME OF PUBLICATION*
		01.04.40	ANNUAL BUDGET/CAFR/AUDIT ESTABLISHED AT TIME OF PUBLICATION*
		01.04.50	COPIES FROM MICROFILMING LARGE FORMAT DRAWINGS (PLANS): \$ 4.50 FIRST SHEET PLUS* \$ 1.50 EACH ADDITIONAL SHEET* SMALL SHEETS (8 ½ X 11): \$ 3.00 FIRST SHEET PLUS* \$.15 EACH ADDITIONAL SHEET*

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

01.05	CITY CLERK DOCUMENTS		
	01.05.10	CITY OF SAN RAFAEL MUNICIPAL CODE	ACTUAL COST PER CITY CLERK
	01.05.20	CERTIFICATE OF DOCUMENTS	\$ 8.00 PLUS COPY FEES OF \$0.15 PER PAGE*
01.06	SPECIAL SERVICES		
	01.06.10	PUBLIC USE - COUNCIL CHAMBERS-INC. SOUND	\$ 200.00*
	01.06.20	PUBLIC USE - COUNCIL CHAMBERS-NO SOUND	\$ 175.00*
	01.06.30	BANNER HANGING - DOWNTOWN	\$ 275.00 HORIZONTAL BANNER* \$ 20.00 EACH FOR VERTICAL BANNERS WITH MINIMUM ONE BLOCK*
	01.06.40	RDA – APPLICATION PROCESSING SPECIAL EVENTS PERMIT	\$ 40.00 NON-PROFITS AND BID \$ 80.00 ALL OTHERS
	01.06.41	RDA – SPECIAL EVENTS APPLICATION DEPOSIT. FOR CLEANING AND POSSIBLE DAMAGES. REFUNDABLE IF CONDITION IS ACCEPTABLE.	REFUNDABLE DEPOSIT: \$ 200.00 ONE BLOCK OR PLAZA* \$ 360.00 TWO OR MORE BLOCKS*
	01.06.42	RDA – SCOUTING OF FILM LOCATION	ACTUAL HOURS OF FBHR*
	01.06.43	EVENT PLANNING & COORDINATION	ACTUAL HOURS OF FBHR*

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

03	POLICE SERVICES	SERVICE DESCRIPTION	CHARGE
	03.01	FINGERPRINTING	
		03.01.10	FINGERPRINTING – NON CRIMINAL \$12.00 PLUS APPLICABLE STATE AND FEDERAL FEES AS NEEDED
	03.03	CONCEALED WEAPONS	
		03.03.00	CONCEALED WEAPON APPLICATION REVIEW \$ 100.00 - SUBJECT TO STATE LIMITATION*
		03.03.20	CONCEALED WEAPON RENEWAL REVIEW \$ 25.00 - SUBJECT TO STATE LIMITATION*
	03.07	RESPONSE SERVICES	
		03.07.10	ALARM PERMITS \$ 74.00
		03.07.12	FALSE ALARM RESPONSES PER FALSE ALARM IN A TWELVE MONTH PERIOD \$ 0.00 - 1 ST AND 2 ND RESPONSE* \$ 140.00 - 3 RD RESPONSE AND SUBSEQUENT RESPONSES
	03.08	DUI FEES	
		03.08.10	DUI COLLISION RESTITUTION ACTUAL COST PLUS ACTUAL HOURS OF STAFF BILLED AT FBHR MAXIMUM OF \$1,300
	03.10	TOWING SERVICES	
		03.10.10	TOWING OPERATOR INVESTIGATIONS \$ 740.00 PLUS APPLICABLE STATE FEES
		03.10.15	ADMINISTRATIVE TOW FEE - SUSPENDED \$ 327.00
	03.11	PERMITS	
		03.11.14	PARADE PERMITS \$ 74.00*
		03.11.18	SPECIAL EVENTS PERMITS BILLING OF ACTUAL COSTS FOR SERVICES RENDERED*
		03.11.22	COUNTY FAIR SUPPORT OVERTIME COSTS OF POLICE PERSONNEL AND RENTAL OF BARRICADES*
	03.12	POLICE SUPPORT SERVICES FEES	
		03.12.10	CLEARANCE LETTER \$ 27.00
		03.12.21	RESEARCH TIME ACTUAL HOURS BILLED FOR POLICE AND OTHER PERSONNEL USING FBHR, NOT TO EXCEED \$15.00 PER HOUR UNDER STATUTORY LIMITATION*

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

03	POLICE SERVICES	SERVICE DESCRIPTION	CHARGE
03.14	SUBPOENAS DUCES TECUM		
		03.14.20 RESEARCH TIME	ACTUAL HOURS BILLED FOR POLICE AND OTHER PERSONNEL USING FBHR, NOT TO EXCEED \$15.00 PER HOUR UNDER STATUTORY LIMITATION*
		03.14.40 DUPLICATING REQUIRING SPECIAL PROCESSING	ACTUAL COST OF DUPLICATING*
03.16	MESSAGE ESTABLISHMENTS		
		03.16.11 OPERATOR PERMIT-NONCERTIFIED MESSAGE ESTABLISHMENT (ANNUAL FEE. EMPLOYEE INCLUDES AN INDEPENDENT CONTRACTOR HIRED BY OR RENTING/LEASING SPACE FROM THE MESSAGE ESTABLISHMENT OWNER.)	\$ 350.00 FIRST LOCATION-NEW OWNER \$ 350.00 EACH ADDITIONAL OWNER \$ 350.00 EACH ADDITIONAL LOCATION \$ 25.00 PER EACH EMPLOYEE REGISTERED \$ 175.00 RENEWAL PER LOCATION (ASSUMES NO CHANGES IN OWNER(S) OR LOCATION AT TIME OF RENEWAL)
		03.16.12 MESSAGE ESTABLISHMENT-CERTIFIED WITH EMPLOYEES (ANNUAL FEE. EMPLOYEE INCLUDES AN INDEPENDENT CONTRACTOR HIRED BY OR RENTING/LEASING SPACE FROM THE MESSAGE ESTABLISHMENT OWNER.)	\$ 247.50 FIRST LOCATION-NEW OWNER \$ 247.50 EACH ADDITIONAL OWNER \$ 247.50 EACH ADDITIONAL LOCATION \$ 25.00 PER EACH EMPLOYEE REGISTERED \$ 123.75 RENEWAL PER LOCATION (ASSUMES NO CHANGES IN OWNER(S) OR LOCATION AT TIME OF RENEWAL)
		03.16.13 MESSAGE ESTABLISHMENT-CERTIFIED NO EMPLOYEES (SOLE PROVIDER/SOLE PROPRIETORSHIP) (ANNUAL FEE. APPLIES TO: A) A HOME-BASED BUSINESS LOCATION WHERE THE MESSAGE ESTABLISHMENT OWNER PROVIDES ON-SITE AND/OR OUTCALL SERVICES; AND B) A COMMERCIAL-BASED LOCATION WHERE THE MESSAGE ESTABLISHMENT OWNER RENTS/LEASES COMMERCIAL SPACE SHARED WITH ANOTHER MESSAGE ESTABLISHMENT OWNER – SOLE PROPRIETORSHIP, OR ANOTHER NON-MESSAGE ESTABLISHMENT	\$ 350.00 FIRST LOCATION-NEW OWNER \$ 350.00 EACH ADDITIONAL LOCATION \$ 62.50 RENEWAL PER LOCATION

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

03	POLICE SERVICES	SERVICE DESCRIPTION	CHARGE
		BUSINESS.)	
	03.17	FORTUNE TELLERS	
		03.17.00	FORTUNE TELLER PERMIT \$ 248.00 INITIAL \$ 62.00 RENEWAL
	03.18	SOLICITORS/PEDDLERS	
		03.18.00	MOBILE VENDOR PERMIT \$ 93.00 FOR NEW OWNER \$ 93.00 FOR ADDITIONAL OWNER \$ 93.00 RENEWAL \$ 93.00 CHANGE/REPLACEMENT OF PERMIT \$ 93.00 FOR ADDITIONAL LOCATION
	03.19	TAXI/PUBLIC CONVENIENCE	
		03.19.00	TAXI CAB P C – OWNER/OPERATOR (RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND LICENSE TO OPERATE) NO CHARGE BY THE CITY AS PROGRAM IS NOW ADMINISTERED BY THE MARIN GENERAL SERVICES AUTHORITY

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

05 BUILDING SERVICES/ FIRE PREVENTION		SERVICE DESCRIPTION	CHARGE
05.01	PLAN CHECKING		
	05.01.00	CONSTRUCTION PLAN CHECKING	65% OF THE PERMIT FEE ESTABLISHED BY THE CALIFORNIA BUILDING CODE PLUS A 10% SURCHARGE (ADOPTED BY RES. 8590) FOR THE STATE MANDATED ENERGY CHECK
05.02	PERMITS AND INSPECTIONS		
	05.02.00	BUILDING AND MEP PERMIT INSPECTION	SEE EXHIBITS A TO D
05.06	RESIDENTIAL INSPECTION		
	05.06.10	RESIDENTIAL INSPECTION REPORTS (EXCL. CONDOS)	\$ 165.00 PER SINGLE FAMILY DWELLING AND FIRST UNIT OF MULTIPLE FAMILY DWELLING* \$ 50.00 FOR EACH ADDITIONAL MULTIPLE UNIT DWELLING*
	05.06.11	CONDO INSPECTION REPORTS	\$ 150.00 PER CONDO*
06.01	FIRE INSPECTIONS		
	06.01.00	FIRE PERMIT INSPECTIONS	SEE EXHIBIT E1
	06.01.01	FIRE CODE EXPLOSIIVE PERMIT	SEE EXHIBIT E1
	06.01.03	INSPECTION OUTSIDE NORMAL BUSINESS HOURS	SEE EXHIBIT E1
	06.01.05	NUISANCE ALARM FEE	THIRD NUISANCE ALARM WITHIN 30 DAYS, FBHR OF ENGINE COMPANY, TWO (2) HOUR MINIMUM
	06.01.06	CONSULTATIVE SERVICES – FIRE PREVENTION	SEE EXHIBIT E1
06.04	COMMERCIAL LIFE SAFETY INSPECTIONS		
	06.04.00	COMMERCIAL LIFE/SAFETY INSPECTION (INCLUDES ONE RE-INSPECTION)	SEE EXHIBIT E2

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

05 BUILDING SERVICES/ FIRE PREVENTION		SERVICE DESCRIPTION	CHARGE
06.05	REINSPECTION SERVICES		
	06.05.00	COMMERCIAL LIFE/SAFETY REINSPECTION	<u>SEE EXHIBIT E2</u>
06.09	FIRE AND LIFE SAFETY PLAN CHECKS		
	06.09.01	FIRE CODE REVIEW OF BUILDING PERMIT	50% OF BUILDING PLAN CHECK FEE*
	06.09.02	FIRE PERMIT INSPECTION	<u>SEE EXHIBIT E1</u>

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

06		FIRE SERVICES	SERVICE DESCRIPTION	CHARGE
	06.01	FIRE INSPECTIONS		
		06.01.02	LIABILITY FOR PERSONS CAUSING EMERGENCIES	FULL COST BILLED TO RESPONSIBLE PARTY PURSUANT TO MUNICIPAL CODE SECTION 4.08.130(A)*
		06.01.04	FIRE WATCH	FBHR OF SCENE SUPERVISION TWO (2) HOUR MINIMUM*
	06.02	HAZARDOUS MATERIALS		
		06.02.01	FIRE CODE RELATED HAZARDOUS MATERIALS INSPECTIONS	NO CHARGE BY THE CITY AS PROGRAM IS ADMINISTERED BY COUNTY CUPA*
		06.02.15	HAZARDOUS MATERIALS – RESIDENTIAL	CITY SHOULD BE REIMBURSED ON A FULL COST BASIS IN ACCORDANCE WITH DATA CONTAINED IN COST STUDY REPORT - SUBJECT TO NEGOTIATIONS WITH JPA*
		06.02.16	CONSULTATIVE SERVICES – HAZARDOUS MATERIALS	NO CHARGE BY THE CITY AS PROGRAM IS ADMINISTERED BY COUNTY CUPA*
	06.03	FIRE REPORTS		
		06.03.00	FIRE REPORTS	\$ 17.00 OR THE MAXIMUM ALLOWABLE BY THE STATE PURSUANT TO THE PUBLIC RECORDS ACT*
	06.07	FIRE DISTRICT SERVICES		
		06.07.00	FIRE PROTECTION SERVICES - CSA #19	STAFF SHOULD UTILIZE THE INFORMATION IN THIS REPORT WHEN NEGOTIATING THE RENEWAL OF THE AGREEMENT WITH CSA#19*
	06.08	EMERGENCY MEDICAL ASSISTANCE		
		06.08.00	EMERGENCY MEDICAL SERVICES	THE CITIZENS VOTED PARAMEDIC TAX PLUS THIRD PARTY BILLING EQUALS THE PARAMEDIC BUDGET. THIRD PARTY BILLING - BAY AREA AVERAGE OF FEES CHARGED FOR TRANSPORTATION; RATES ARE ESTABLISHED BY FIRE CHIEF & CITY MANAGER, INDEXED FOR INFLATION AND ARE SUBJECT TO NEGOTIATIONS. FEE MAY INCLUDE AMBULANCE DISPATCH AND

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

06	FIRE SERVICES	SERVICE DESCRIPTION	CHARGE
			FUEL SURCHARGE (MILEAGE) COMPONENTS. PARAMEDIC TAX SUBJECT TO VOTER APPROVED LIMITS ON CITY AND OUTLYING JURISDICTIONS.*
06.10	FIRE/EMS TRAINING AND EDUCATION		
		06.10.01 FIRE/EMS TRAINING AND EDUCATION	FEE SET AT COST PER STUDENT, PLUS MATERIALS. COST PER STUDENT = SHARE OF CLASS MINIMUM NUMBER TO RECOVER FBHR OF INSTRUCTOR*

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

07 LIBRARY SERVICES		SERVICE DESCRIPTION	CHARGE
07.01	BOOK FINES		
	07.01.10	ADULT FINES	\$ 0.25 PER BOOK PER DAY* \$ 10.00 PER BOOK MAXIMUM*
	07.01.20	CHILDREN'S FINES	NO FINES
07.02	RESERVES - ILL (INTER LIBRARY LOAN)		
	07.02.10	RESERVE	\$ 0.50 PER ITEM OR THE FEE APPROVED BY MARINET, WHICHEVER IS LESS.*
	07.02.20	ILL - MARINET CONSORTIUM	INCLUDED IN T-07.02.10 ABOVE
	07.02.30	ILL - NORTH BAY COOPERATIVE LIBRARY SYSTEM (NBCLS)	INCLUDED IN T-07.02.10 ABOVE
	07.02.40	ILL OUTSIDE MARIN AND NBCLS	INCLUDED IN T-07.02.10 ABOVE
07.03	AUDIO/VISUAL RENTALS		
	07.03.10	COMPACT DISCS	NO CHARGE*
	07.03.20	AUDIO BOOKS	\$ 1.00 FOR THE FIRST THREE WEEKS* \$ 0.25 PER DAY THEREAFTER*
	07.03.30	ADULT VIDEOS/DVD'S	VHS.: NO CHARGE FOR FIRST WEEK; \$1.00 PER DAY THEREAFTER UP TO MAXIMUM FINE OF \$14.00.* DVDs: \$ 2.00 FOR THE FIRST WEEK, \$1.00 PER DAY THEREAFTER UP TO A MAXIMUM FINE OF \$14.00.*
	07.03.35	CHILDREN'S VIDEOS/DVD'S	NO FINES
07.04	LOST/DAMAGED ITEMS		
	07.04.10	ADULT BOOKS, VIDEOS, AUDIO TAPES, COMPACT DISCS	COST PLUS \$ 8.00*
	07.04.20	CHILDRENS BOOKS, VIDEOS, AUDIO TAPES, COMPACT DISCS	COST PLUS \$ 8.00*
	07.04.30	REPLACEMENT LIBRARY CARD	\$ 1.00 PER CARD FOR ADULT AND NO CHARGE FOR MINOR

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

08	COMMUNITY SERVICES	SERVICE DESCRIPTION	CHARGE
07.07	FALKIRK FACILITIES AND PROGRAMS		
	07.07.10	FALKIRK RENTALS	SEE EXHIBIT G*
	07.07.30	FILMING	SEE EXHIBIT G*
	07.07.40	CATERING DEPOSITS	THIS SERVICE IS NO LONGER PROVIDED
08.00	PROGRAM SERVICES		
	07.07.20	FALKIRK PROGRAMS	25% TO 50% OF COST OF PROGRAM INSTRUCTOR SUBJECT TO NEGOTIATION BETWEEN CITY AND INSTRUCTOR*
	08.00.01	ADULT RECREATION PROGRAMS AND CLASSES	CITY RETAINS BETWEEN 20 TO 40% OF COST OF PROGRAM PROVIDER AS FEE - SUBJECT TO INDIVIDUAL NEGOTIATION*
	08.00.02	YOUTH RECREATION PROGRAMS AND CLASSES	CITY RETAINS 10% TO 40% OF COST OF PROGRAM PROVIDER AS FEE - SUBJECT TO INDIVIDUAL NEGOTIATION*
	08.00.03	SENIOR RECREATION PROGRAMS	USING BUSINESS COST STUDY, STAFF WILL RENEGOTIATE CONTRACT TO MEET COST RECOVERY GOALS ESTABLISHED BY CHAPTER 3.34 OF THE SAN RAFAEL MUNICIPAL CODE*
	08.00.06	FACILITIES RESERVATIONS	SEE EXHIBIT H
08.06	CHILD CARE PROGRAMS		
	08.06.10	CHILD CARE PROGRAMS (NON GRANT) - INCLUDING PRE SCHOOL, AFTER SCHOOL AND SUMMER PROGRAMS	SEE EXHIBIT K

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE
10.01	MAPPING		
	10.01.10	LOT LINE ADJUSTMENT	\$ 3131.00 (FLAT FEE)
	10.01.20	SMALL SUBDIVISION MAP	\$ 3,735.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.01.30	TENTATIVE MAP	\$ 7,293.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.01.40	SUBDIVISION EXCEPTION	\$ 2,761.00 (FLAT FEE). ACCOMPANIES AND SUBORDINATE TO TENTATIVE MAP AND SMALL SUBDIVISION MAP.
	10.01.50	MAP AMENDMENTS AND EXTENSIONS	\$ 2,239.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.01.60	CERTIFICATES OF COMPLIANCE	\$ 3,410.00 (FLAT FEE)
10.02	DEVELOPMENT AND ANNEXATION		
	10.02.40	DEVELOPMENT AGREEMENT	\$ 11,534.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE
	10.03	USE PERMITS	
		10.03.10	USE PERMIT – ADMINISTRATIVE/TEMPORARY \$ 1,420.00 (FLAT FEE)
		10.03.30	USE PERMIT - ZONING ADMINISTRATOR \$ 2,476.00 (FLAT FEE)
		10.03.40	USE PERMIT - PLANNING COMMISSION \$ 4,305.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.04	VARIANCES	
		10.04.10	MINOR VARIANCE - ZONING ADMINISTRATOR \$ 2,508.00 (FLAT FEE)
		10.04.20	VARIANCE - PLANNING COMMISSION \$3,767.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.*
		10.04.30	REASONABLE ACCOMMODATION FOR DISABLED \$ 964.00 (FLAT FEE)
		10.04.40	EXCEPTION REQUEST \$ 1,023.00 (FLAT FEE)
	10.05	DESIGN REVIEW	
		10.05.20	DESIGN REVIEW (STAFF/ADMINISTRATIVE) \$ 1,167.00 (FLAT FEE)
		10.05.22	DESIGN REVIEW – OVER THE COUNTER (STAFF/ADMINISTRATIVE) \$ 398.00 (FLAT FEE)
		10.05.25	DESIGN REVIEW – STAFF WITH DRB \$ 3,564.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.05.30	DESIGN REVIEW - ZONING ADMIN. WITHOUT DESIGN REVIEW BOARD (DRB) \$ 2,258.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE
			MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.05.40	DESIGN REVIEW - ZONING ADMIN. WITH DRB	\$ 4,693.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.05.50	DESIGN REVIEW SINGLE FAMILY RESIDENTIAL - PLANNING COMMISSION	\$ 6,872.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.05.52	DESIGN REVIEW – ALL OTHERS (PLANNING COMMISSION)	\$ 8,523.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.05.55	DESIGN REVIEW WITH EXCEPTION TO HILLSIDE STANDARDS	\$ 8,493.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
	10.05.60	CONCEPTUAL REVIEW	\$ 1,750.00 (FLAT FEE), REFLECTING 70% DISCOUNT OF ANTICIPATED TYPICAL APPLICATION COST TO ENCOURAGE APPLICANTS TO RECEIVE PRELIMINARY DESIGN FEEDBACK PRIOR TO FORMAL APPLICATION FILING.

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10 PLANNING SERVICES		SERVICE DESCRIPTION		CHARGE
	10.06	SIGN REVIEW		
		10.06.10	SIGN REVIEW – STAFF	\$ 255.00 (FLAT FEE)
		10.06.15	SIGN REVIEW – STAFF W/ DRB	\$ 2,285.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.06.20	SIGN PROGRAM – MINOR (STAFF)	\$ 1,049.00 (FLAT FEE)
		10.06.21	SIGN PROGRAM – MAJOR (PLANNING COMMISSION)	\$ 4,303.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.06.22	SIGN REVIEW – MINOR EXCEPTION	\$ 1,043.00 (FLAT FEE)
		10.06.24	SIGN REVIEW – MAJOR EXCEPTION	\$ 4,220.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.06.30	TEMPORARY BANNER PERMIT	\$ 132.00 (FLAT FEE)
	10.07	APPEAL FEES		
		10.07.00	APPEAL TO PLANNING COMMISSION	NON-APPLICANT/RESIDENT - \$ 300.00 FOR THE APPEAL* \$ 50.00 ADDITIONAL CHARGE FOR REQUEST FOR CONTINUATION* APPLICANT/NON-RESIDENT - \$4,834.00 STAFF BILLED AT FBHR.*
		10.07.10	APPEAL TO CITY COUNCIL	NON-APPLICANT/RESIDENT - \$ 350.00 FOR THE APPEAL* \$ 50.00 ADDITIONAL CHARGE FOR REQUEST FOR CONTINUATION* APPLICANT/NON-RESIDENT - \$4,476.00 INITIAL DEPOSIT BASED ON 70% OF

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE
			ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR.*
	10.08	ENVIRONMENTAL IMPACT FEES	
		10.08.20	NEGATIVE DECLARATION \$ 10,346.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR.
		10.08.30	ENVIRONMENTAL IMPACT REPORT ACTUAL COST FOR ENVIRONMENTAL CONSULTANT PLUS 25% SURCHARGE FOR STAFF ADMINISTRATION*
		10.08.40	MONITORING OF MITIGATION MEASURES AND CONDITIONS OF APPROVAL \$ 6,540.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR.
	10.13	GENERAL PLAN FEES	
		10.13.10	GENERAL PLAN AMENDMENT \$ 8,646.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.13.20	REZONING/PRE-ZONING \$ 7,176.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.13.30	PLANNED DISTRICT \$11,194.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.13.40	GENERAL PLAN MAINTENANCE 35.5% SURCHARGE ON BUILDING PERMITS (05.02.00) FOR UPDATING

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE
			GENERAL PLAN ELEMENTS (9.6%) AND IMPLEMENTING EXISTING PLAN (25.9%)*
	10.14	OTHER PLANNING SERVICES	
		10.14.02	PRE APPLICATION MEETING – DEVELOPER \$ 1,191.00 (FLAT FEE), REFLECTING 60% DISCOUNT OF ANTICIPATED TYPICAL APPLICATION COST TO ENCOURAGE APPLICANTS TO RECEIVE PRELIMINARY STAFF FEEDBACK PRIOR TO FORMAL APPLICATION FILING.
		10.14.10	PROJECT SELECTION PROCEDURE (PSP) THIS SERVICE IS BEING PROPOSED FOR ELIMINATION BY STAFF
		10.14.20	LICENSING AGREEMENT (OUTDOOR DINING) \$ 564.00 (FLAT FEE)
		10.14.22	CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OF HISTORIC STRUCTURE \$ 5,430.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.14.50	CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ALCOHOLIC BEVERAGE LICENSE \$ 1,612.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.14.52	NEIGHBORHOOD MEETING \$ 1,444.00 INITIAL DEPOSIT BASED ON 70% OF ANTICIPATED TYPICAL APPLICATION COST. STAFF TIME BILLED AT FBHR. SUBMITTALS WHICH INCLUDE MULTIPLE DEPOSIT-BASED APPLICATIONS MAY REDUCE THE INITIAL DEPOSIT AMOUNT BY 25%.
		10.14.60	CONTRACT PLANNER/CONSULTANT ADMINISTRATION ACTUAL COST OF CONTRACT AMOUNT PLUS 10%.

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

10	PLANNING SERVICES	SERVICE DESCRIPTION	CHARGE	
		10.14.62	PLANNING RESEARCH	FIRST 15 MINUTES OF SERVICE AT NO CHARGE, THEREAFTER ACTUAL TIME OF STAFF BILLED TO NEAREST QUARTER HOUR AT THE FBHR*
		10.14.72	BUILDING PERMIT - PLAN CHECKS	\$ 109.00 FOR 45 MINUTES AND UNDER; BILLED ACTUAL STAFF TIME AT FBHR FOR OVER 45 MINUTE PLAN CHECK REVIEWS
		10.14.82	ARCHAEOLOGY REFERRAL	\$ 80.00 REIMBURSEMENT FOR COSTS PAID TO SONOMA STATE UNIVERSITY*
		10.14.90	ZONING RESEARCH LETTER RESPONSE	\$ 132.00 FOR ONE HR OF STAFF TIME.* \$ 198.00 FOR ONE AND A HALF HRS OF STAFF TIME
	10.15	CODE ENFORCEMENT INSPECTIONS		
		10.15.01	HOTEL ROOM AND APARTMENT UNIT INSPECTION. NOT CHARGED TO HOTELS/APTS. WITH 2 OR FEWER ROOMS/UNITS. INITIAL INSPECTION, NOTICE AND ORDER OF VIOLATIONS, AND RE-INSPECTION INCLUDED	APARTMENTS: \$316.00 PER SITE, PLUS \$22.00 PER UNIT OVER TWO ON SITE HOTELS: \$ 261.00 PER SITE, PLUS \$11.00 PER ROOM OVER TWO ON SITE
		10.15.02	HOTEL /APARTMENT SECOND RE-INSPECTION AND NOTICING	APARTMENTS: \$135.00 PER HOUR WITH A 1 HOUR MINIMUM CALCULATED TO THE NEAREST 25 MINUTES
		10.15.03	HOTEL/APARTMENT FINAL INSPECTION FOR COMPLIANCE	STAFF RECOMMENDS DELETING THIS SERVICE AS IT IS COVERED BY T-10.15.02

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

11		ENGINEERING SERVICES (PW)		SERVICE DESCRIPTION	CHARGE
	01.04	MAPS			
		01.04.60	ENGINEERING MAPS AND DOCUMENTS:		
		01.04.61	AERIAL PHOTOS	SEE MAP SALES INFO (EXHIBIT I)*	
		01.04.62	TOPOGRAPHY MAPS	SEE MAP SALES INFO (EXHIBIT I)*	
		01.04.63	PARCEL MAPS	SEE MAP SALES INFO (EXHIBIT I)*	
		01.04.64	RIGHT OF WAY (ROW) MAPS	SEE MAP SALES INFO (EXHIBIT I)*	
		01.04.65	CUSTOM MAPS	\$ 40.00 FOR STAFF AND COMPUTER TIME PLUS COST OF REQUIRED MAPS*	
	03.05	TRANSPORTATION SERVICES			
		03.05.10	OVERSIZE LOAD REVIEW	STATE MANDATED FEE MAXIMUM: \$ 16.00 SINGLE TRIP (3-5 WORKING DAY DURATION. SINGLE ORIGIN TO SINGLE DESTINATION ON ONE DIRECTION OF TRAVEL* \$ 92.00 ANNUAL ONE YEAR DURATION* \$ 92.00 REPETITIVE. MAXIMUM OF SIX-MONTH DURATION (SAME LOAD ON SAME ROUTE)* POLICE ESCORT SERVICES: \$301 MINIMUM FOR TWO HOURS AND ANY ADDITIONAL HOURS BILLED AT FBHR OF OFFICER (REFER TO T-11.09.30 FOR TRIP PERMIT)	
	09.03	REFUSE FEE			
		09.03.00	REFUSE IMPACT FEE FOR STREET RESURFACING	\$196,000.00 IMPOSED ON LOCAL WASTE HAULER FRANCHISEE – MARIN SANITARY SERVICE*	
	09.04	CONSTRUCTION FEE			
		09.04.00	CONSTRUCTION IMPACT FEE FOR STREET RESURFACING	1% OF ASSESSED VALUATION LEVIED ON ALL BUILDING PERMITS AND INSPECTIONS – 1 ST \$10,000.00 OF VALUATION IS EXEMPT *	
	11.01	ENCROACHMENT PERMITS			
		11.01.20	MINOR ENCROACHMENT PERMITS	\$ 368.00 CITY MANAGER OR PUBLIC WORKS DIRECTOR HAS THE RIGHT TO WAIVE FEES	

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

11		ENGINEERING SERVICES (PW)	SERVICE DESCRIPTION	CHARGE
				FOR GOVERNMENTAL AGENCIES.
		11.01.21	REVOCABLE LICENSE AGREEMENTS FOR MAJOR CONTINUING ENCROACHMENT	\$2,394.00 (FLAT FEE) CITY MANAGER OR PUBLIC WORKS DIRECTOR HAS THE RIGHT TO WAIVE FEES FOR GOVERNMENTAL AGENCIES
		11.01.25	UTILITY/SPECIAL DISTRICT ENCROACHMENT PERMITS	\$ 919.00 (FLAT FEE) ADDITIONAL FEES MAY BE ASSESSED IF STAFF WORK EXCEEDS 2 HOURS OF ENGINEER TIME, 2 HOURS OF PUBLIC WORKS ASSISTANCE DIRECTOR TIME, AND .5 HOUR PUBLIC WORKS DIRECTOR TIME, TO BE BILLED AT FBHR. CITY MANAGER OR PUBLIC WORKS DIRECTOR HAS THE RIGHT TO WAIVE FEES FOR GOVERNMENTAL AGENCIES.
		11.01.30	TEMPORARY ENCROACHMENT PERMITS (DEBRIS BOX, SCAFFOLDING, TREE TRIMMING, PUBLIC STREET/SIDEWALK CLOSURE, PAINTING/WASHING OF BUILDING EXTERIOR, SIDEWALK INSTALLATION, CONSTRUCTION FENCING, AND CURB PAINTING, AND OTHER ITEMS PER THE DIRECTOR OF PUBLIC WORKS	\$ 246.00 CITY MANAGER OR PUBLIC WORKS DIRECTOR HAS THE RIGHT TO WAIVE FEES FOR GOVERNMENTAL AGENCIES.
	11.02	PUBLIC WORKS SERVICES		
		11.02.10	ABANDONMENT PROCESSING	\$ 2,056.00
		11.02.20	BAYPOINT ASSESSMENT DISTRICT	\$ 406.00 PER YEAR
		11.02.21	LOCH LOMOND ASSESSMENT DISTRICT	\$ 576.00 PER YEAR
		11.02.30	PARCEL MAP PLAN CHECK	\$ 713.00
		11.02.40	PARCEL MAP PLAN CHECK REQUIRING COUNCIL ACTION	\$ 713.00
		11.02.50	FINAL MAP PLAN CHECK	ACTUAL COST AGAINST A DEPOSIT ESTABLISHED BY STAFF WITH A \$3,285.00 MINIMUM

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

	11.03	IMPROVEMENT PLAN CHECKING		
		11.03.12	SUBDIVISION PLAN CHECKING (BASED UPON IMPROVEMENT VALUATIONS: \$0 TO \$10,000 \$10,001 TO \$100,000 \$100,001 AND OVER	\$2,615.00 (FLAT FEE)
	11.04	IMPROVEMENT INSPECTION FEES		
		11.04.10	CURB AND GUTTER INSPECTION: FIRST 50 FEET 51 TO 100 FEET 101 AND OVER FEET	FEES BASED ON SQ. FT/EACH DELETED AND CHANGED TO: PROJECTS UNDER \$5,000: SEE MINOR ENCROACHMENT PERMIT (11.01.20)* PROJECTS OVER \$5,000: SEE IMPROVEMENT PLAN CHECKING AND INSPECTIONS: 11.03.12/11.04.50*
		11.04.10	SIDEWALK INSPECTION: FIRST 500 SQ. FT. 501 AND OVER SQ. FT.	SEE ABOVE*
		11.04.10	DRIVEWAY APPROACHES: UP TO 30 FT. WIDTH 31 FT AND OVER	SEE ABOVE*
		11.04.10	MULTIPLE DRIVEWAYS	SEE ABOVE*
		11.04.50	SUBDIVISION AND ASSESSMENT DISTRICTS: \$0 TO \$10,000 \$10,001 TO \$100,000 \$100,001 AND OVER	\$1,464.00 (FLAT FEE)
	11.05	STREET CUT INSPECTION (UTILITIES)		
		11.05.10	PG&E, PAC BELL AND MMWD	STAFF RECOMMENDS DELETING AS IT DUPLICATES ENCROACHMENT PROCESS.
		11.05.20	ALL OTHER PUBLIC AGENCIES	STAFF RECOMMENDS DELETING AS IT DUPLICATES ENCROACHMENT PROCESS.

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CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

11.06	GRADING PERMITS - PLAN CHECKS AND INSPECTIONS		
	11.06.10	GRADING PLAN CHECK AND INSPECTION (BASED ON CU. YDS.): LESS THAN 1,000 CU. YDS. 1,001 TO 10,000 CU. YDS. 10,001 TO 100,000 CU. YDS. 100,001 TO 200,000 CU. YDS. 200,001 AND OVER CU. YDS.	\$ 250.00 \$ 869.00 \$ 869.00 + \$90.00 EACH ADD'L 10,000 CU YDS OR FRACTION \$ 1,679.00 + \$53.00 EACH ADD'L 10,000 CU. YDS. OR FRACTION \$ 1,866.00 + \$47.00 EACH ADD'L 10,000 CU. YDS. OR FRACTION
11.07	GRADING INSPECTIONS		
	11.07.10	GRADING INSPECTION (BASED ON CU. YDS): 1,000 CU. YDS. OR LESS 1,001 TO 10,000 CU. YDS. 10,001 TO 100,000 CU. YDS. 100,001 AND OVER CU. YDS.	INCLUDED IN 11.06 ABOVE.
11.08	WATER USE PERMITS		
	11.08.10	WATER COURSE PERMITS	\$ 31.00*
	11.08.20	TIDE LAND PERMITS	\$ 1.25 PER CU. YD. OF DREDGED MATERIAL* \$500 FOR OTHER TIDELAND PERMITS*
11.09	INFORMATION REQUEST SERVICES		
	11.09.11	FLOOD PLAIN LETTER RESPONSE	\$ 167.00
	11.09.20	PROPERTY INFORMATION REQUESTS	\$ 254.00

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

11		ENGINEERING SERVICES (PW)	SERVICE DESCRIPTION	CHARGE
	11.10	RIGHT-OF-WAY		
		11.10.10	RIGHT-OF-WAY AGREEMENT	STAFF RECOMMENDS DELETING THIS SERVICE.
		11.10.15	RIGHT-OF-WAY ENCROACHMENT PERMIT	STAFF RECOMMENDS DELETING AS IT DUPLICATES ENCROACHMENT PROCESS.

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

CITY OF SAN RAFAEL
Exhibit A
MASTER FEE SCHEDULE

13		MAINTENANCE SERVICES	SERVICE DESCRIPTION	CHARGE
	13.00	MAINTENANCE SERVICES		
		13.03.00	SEWER SERVICE - SAN RAFAEL SANITATION DISTRICT	FULL COST RECOVERY USING BUSINESS COST STUDY DATA - SUBJECT TO NEGOTIATIONS WITH SRSD BOARD*
		13.90.25	DRAINAGE - STORM WATER	RATE \$28.00 PER EDU - RATE SUBJECT TO PROPOSITION 218 REQUIREMENTS*
	14.00	OTHER SERVICES		
		01.05.22	ANIMAL CONTROL	
				ONE YEAR \$16*
				TWO YEAR \$24*
				THREE YEAR \$34*
				UNALTERED LICENSE
				ONE YEAR \$45*
				TWO YEAR \$55*
				THREE YEAR \$77*
				SENIOR & DISABLED DISCOUNT – 25%
				SEE EXHIBIT J FOR OTHER FEES*

*No Fee Change
 FBHR= Fully Burdened Hourly Rate For Staff Positions

Mechanical Permit Fees

	Current	Proposed
Furnace or Heater:		
Up to 100,000 BTU	\$19.00	\$20.00
Over 100,000 BTU	\$23.50	\$24.70
Floor Furnace	\$19.00	\$20.00
Wall furnace, unit heater	\$19.00	\$20.00
Furnace/AC alteration or repair	\$18.00	\$19.00
Diffuser (ea)	\$1.50	\$1.60
Gas Piping, up to 4 outlets	\$6.00	\$6.30
each additional gas outlet	\$1.50	\$1.60
Boiler, Compressor, Refrigeration		
0-3 HP 100M BTU	\$19.00	\$20.00
4-15 Hp, 100-500M Btu	\$35.50	\$37.25
16-30 Hp, 500-1000M Btu	\$48.50	\$51.00
31-50 Hp, 1000-1750M Btu	\$72.00	\$75.60
Over 50 Hp or 1750M Btu	\$120.50	\$126.50
Air Handlers		
Under 10,000 CFM	\$14.00	\$14.70
over 10,000 CFM	\$23.50	\$24.70
Evaporative coolers	\$14.00	\$14.70
Ventilation Hoods	\$14.00	\$14.70
Appliance Vent or Fan	\$9.50	\$10.00
Ventilation system, not part of furnace	\$14.00	\$14.70
Other not listed	\$14.00	\$14.70
Special Inspection/Investigation or reinspect	\$64.50	\$67.70
Permit Fee		
Normal	\$30.50	\$32.00
Supplemental	\$9.50	\$10.00
Minimum	\$102.00	\$125.00

Plumbing Permit Fees

	Current	Proposed
Water Closets	\$9.00	\$9.50
Wash Basins	\$9.00	\$9.50
Tubs / Showers	\$9.00	\$9.50
Sinks	\$9.00	\$9.50
Floor Drains	\$9.00	\$9.50
Grease Trap	\$9.00	\$9.50
Other fixtures or traps	\$9.00	\$9.50
Sewage Ejector	\$52.00	\$54.60
Building Sewer	\$19.50	\$20.50
Private Sewage system	\$52.00	\$54.60
Water Heater	\$9.00	\$9.50
Gas Piping, 1-5 outlets	\$6.50	\$7.00
Additional, ea.	\$1.50	\$1.60
Water Piping	\$9.00	\$9.50
Repair, waste and vents	\$9.00	\$9.50
Vacuum Breaker 1-2	\$6.50	\$7.00
Backflow prevention		
2" or less	\$9.00	\$9.50
over 2"	\$19.50	\$20.50
Medical gas system	\$65.00	\$68.25
additional outlets >5	\$6.50	\$7.00
Rainwater System (inside)/ per drain.	\$9.00	\$9.50
Graywater system	\$52.00	\$54.60
Lawn Sprinkler System	\$9.00	\$9.50
Special Inspection/Investigation or reinspect	FBHR	FBHR
Permit Fee		
Normal	\$26.00	\$27.30
Supplemental	\$13.00	\$13.70
Minimum	\$102.00	\$125.00

EXHIBIT E-1

Tentative Parcel Maps Depicting the Northwestern Portion of the 999 3rd Street Property to be Donated to Develop the Healthy Aging Campus

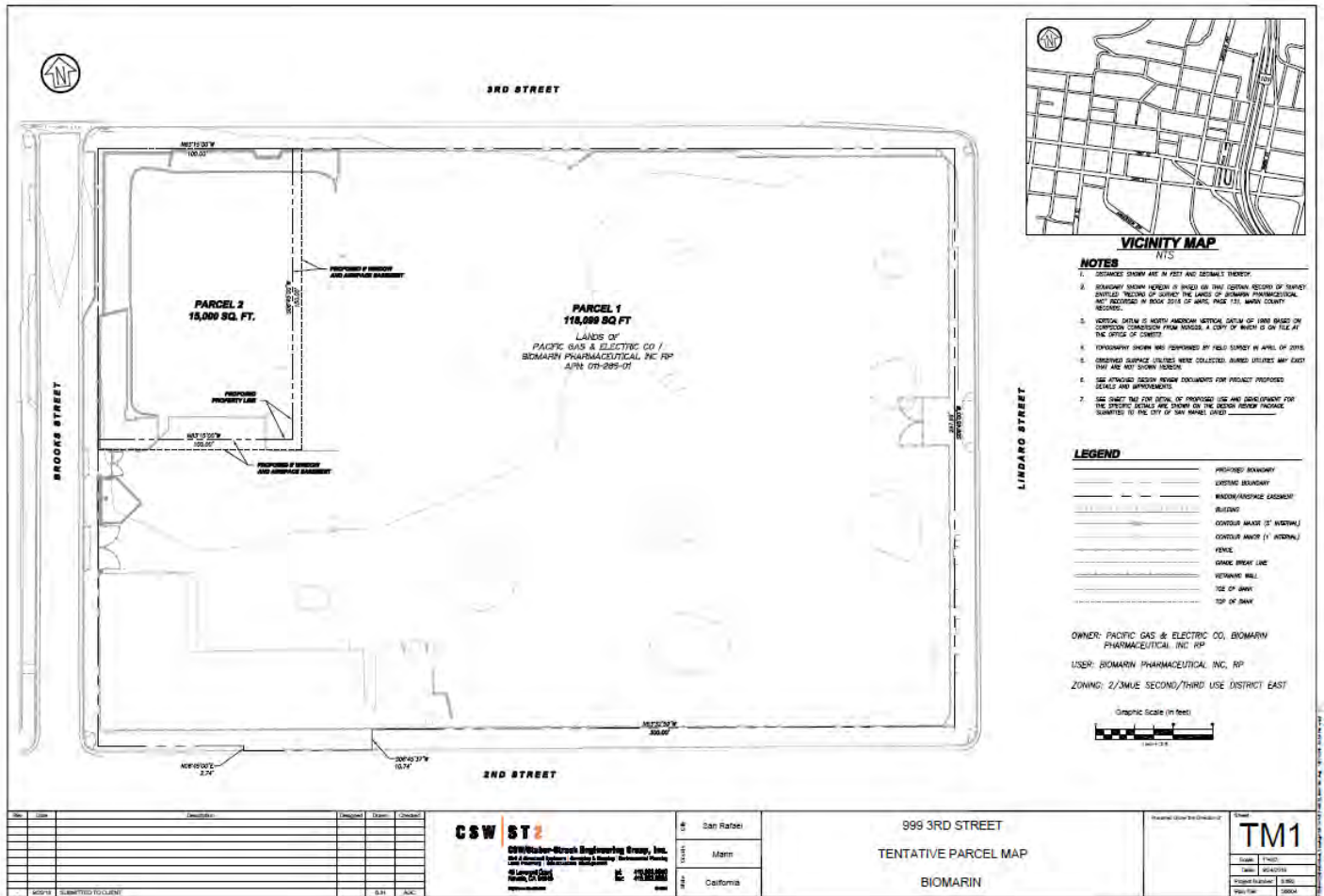


EXHIBIT E-2

Tentative Parcel Maps Depicting the Northwestern Portion of the 999 3rd Street Property to be Donated to Develop the Healthy Aging Campus

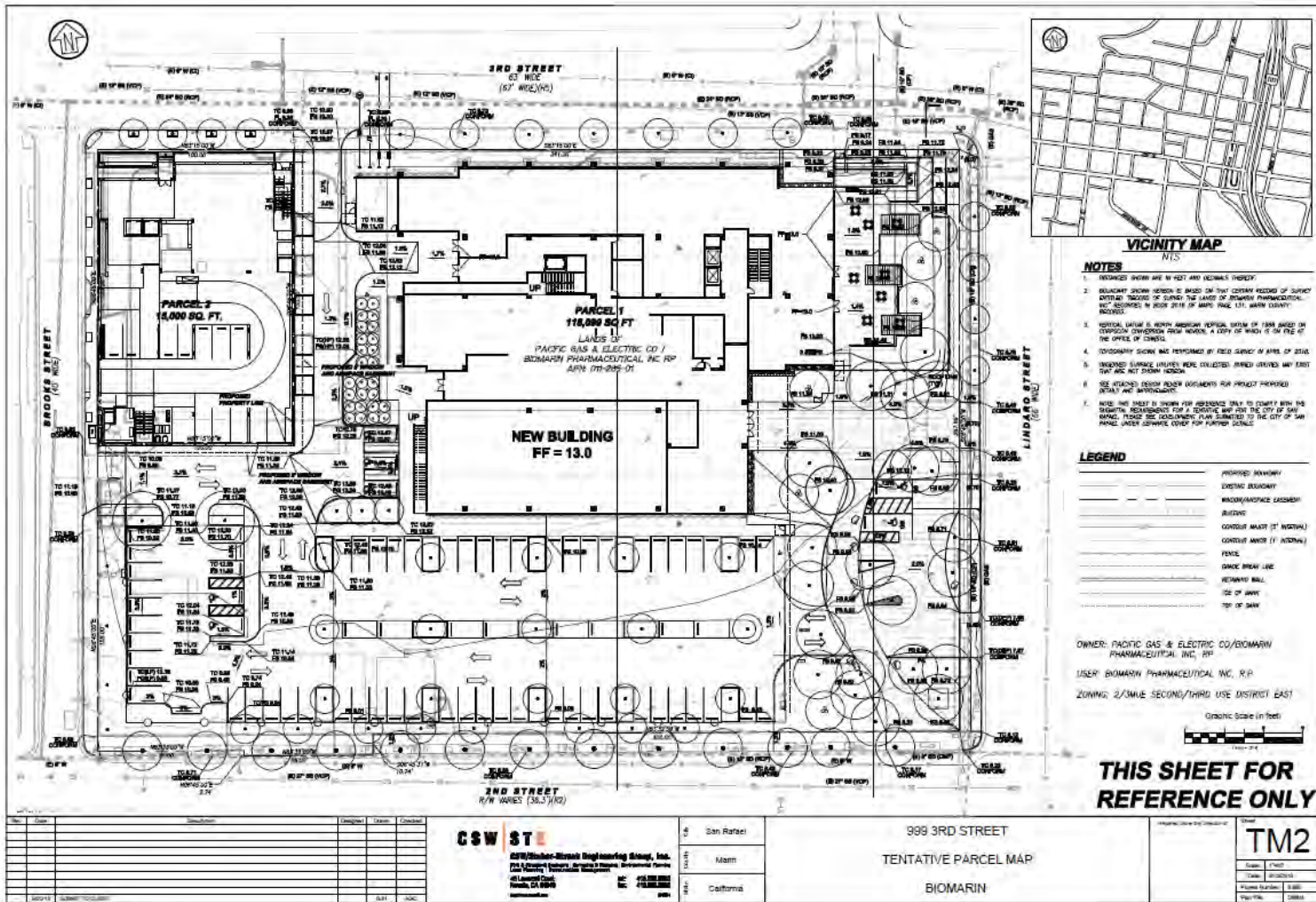


EXHIBIT F

Description of the Vested Approvals for the R&D Development Property

Developer proposes to develop the R&D Development Property as an extension of the SRC campus that is currently located in Downtown San Rafael. As such, the current Planned Development (PD-1936) zoning designation that applies to the Original SRC Property will be expanded to encompass the R&D Development Property and amended to permit retail uses. Development standards for the Expanded SRC (which includes both the Original SRC Property and the R&D Development Property) will establish a blended maximum floor area ratio of 0.9 and new parking ratios appropriate to the proposed uses of the Expanded SRC, subject to a contingency plan in the event that Developer no longer occupies the Expanded SRC and another single user or multiple tenants with higher parking demands occupies the Expanded SRC. For the R&D Development Property, building height bonus will be applied in return for provisions of specified amenities and community benefits.

The R&D Development Property will consist of approximately 207,000 square feet of space for R&D laboratories, office uses and retail space, to be developed in two phases.

The Expanded SRC will continue to offer a publicly accessible, interior conference facility consisting of 2,500 square feet, provided that, at the sole option of Developer, such facility may be relocated from the current location to a location within the R&D Development Property that provides substantially equivalent amenities and space, as determined by Developer upon completion of the retail and plaza portions of the R&D Development Property.

The Expanded SRC will offer the City the Temporary Public Parking Parcel until such time as commencement of construction activities for either building on the R&D Development Property.

In exchange for the contribution of an additional \$500,000 to the City for general traffic improvements and in light of significant concerns about pedestrian safety and the fact that a parallel public path already exists, the City is eliminating the requirement that the Lindaro and Parking Expansion Project develop and maintain a trail along the southern edge of the campus abutting Mahon Creek.

Except as described above, the Original SRC Property development will remain substantially unchanged from its previously approved size and configuration. All construction for the Original SRC Property development has been completed except for the new office building to be built at 755 Lindaro Street (for a total of an additional 72,396 square feet) and the expansion of the parking structure at 788 Lincoln Street, which are part of the New Projects.

EXHIBIT G

Description of Park Area

A landscaped park area located on the south side of the Original SRC Property (south of and between Buildings A (750 Lindero Street) and B (781 Lincoln Avenue), bordered on the south by Mahon Creek). The park area shall be owned, in fee, and permanently maintained by the Developer. A permanent public access easement has been recorded over the park area as part of the San Rafael Corporate Center subdivision map (RM 2002-185). The public use of this park area is subject to the BioMarin San Rafael Campus Conference Facilities and Mahon Creek Park Rules and Regulations on file with the City of San Rafael.

EXHIBIT H

Form of Estoppel Certificate

ESTOPPEL CERTIFICATE

_____, 202__

[Insert Receiving Party's Address]

RE: Development Agreement – BioMarin San Rafael Campus

Ladies and Gentlemen:

The undersigned (the “**Undersigned**”), a party under that certain Development Agreement (BioMarin San Rafael Campus) dated as of _____, 2020 and recorded on _____, 2020 in the Official Records of Marin County as Recording No. _____ (the “**Development Agreement**”), which affects that certain real property located in San Rafael, California and further described therein (the “**Property**”), hereby certifies as follows to _____ (“**Developer**” OR the “**City**”), that, as of the date hereof:

1. The Development Agreement has not been modified, changed, altered, assigned, supplemented or amended in any respect, and except for the Development Agreement, there are no other promises, agreements, understandings, or commitments between the Undersigned and [Developer OR the City] with respect to the development of the Property. Capitalized terms not used but not defined herein shall have the meanings given to them in the Development Agreement.
2. The Development Agreement is in full force and effect and expires on _____.
3. There are no current uncured defaults by any party under the Development Agreement or the Property under the Development Agreement. Developer and the Property, including the improvements thereon and the use and operation thereof, are in compliance with the terms and conditions of the Development Agreement. The Undersigned has neither given nor received any notice of default under the Development Agreement, and no event has occurred that, with the giving of notice, the passage of time, or both, would become a default under the Development Agreement.
4. No controversy exists between the Parties or any of the owners subject to the Development Agreement, including any litigation or arbitration, with respect, or relating, to the Development Agreement. The Undersigned has no defense, claims or counterclaims against [Developer OR the City].

5. No obligation (including any monetary obligation) remains due or owing under the Development Agreement by [Developer OR the City] to the Undersigned or by the Undersigned to [Developer OR the City] except for:
_____.
6. The Undersigned and the person(s) executing this Estoppel Certificate on behalf of the Undersigned have the power and authority to deliver this Estoppel Certificate and make the statements set forth herein.
7. The Undersigned acknowledges and agrees that this Estoppel Certificate may be relied upon by [Developer, prospective buyer of all of any portion of the Property, and any lender making a loan to such buyer, and each of their respective successors and assigns] OR [the City].

[SIGNATURE PAGE FOLLOWS]

This Estoppel Certificate is executed as of the date first written above.

By: _____
Name: _____
Title: _____



March 5, 2020

City of San Rafael
City Council
1400 Fifth Avenue, Room 203
San Rafael, CA 94901

Re: Mahon Creek Path

Dear City Councilmembers,

We submit the following letter to clarify BioMarin's position with respect to our mutual agreement with the City Council Special Committee to eliminate BioMarin's obligation to develop a pedestrian path along the north side of Mahon Creek from the new Development Agreement. There was some confusion at the Planning Commission hearing that we are eliminating an existing path. We want to make abundantly clear that we are not taking away any existing path. The obligation to build a path was tied to the construction of the 755 Lindero office building and the second phase of the Lincoln garage approved in 2015. Since the office building and parking structure have not yet been built, the path does not currently exist. As we discussed with the City Council at the public meeting on January 6, 2020, BioMarin sought to eliminate the path development obligation for two main reasons: safety and redundancy. Attached, for your convenience are maps and images depicting existing and proposed paths providing connectivity to downtown and the SMART station.

With regard to safety, the formerly planned pathway would be located on the north side of Mahon Creek, behind BioMarin's six-story tall Lincoln garage parking structure with no visibility from public streets and limited sightlines more generally. This presents a significant safety concern as it invites homeless encampments and provides a relatively isolated area for crime and drug use. Given that BioMarin already finds discarded drug paraphernalia in and around its campus on much more open pathways, the development of a path along the north side of Mahon Creek that is sheltered from public view by a large parking garage would exacerbate this problem and create a public hazard. Moreover, the path would not offer a pleasant walking experience as it would be sandwiched between the City's pump station structure and BioMarin's parking garage (as the pump station sits along Mahon Creek).

In addition to the significant safety concerns with the location of the formerly planned path, there is no need to develop a path because pathways already exist to connect pedestrians from Anderson Drive to 2nd street. In fact, the San Rafael Police Department's position is that there is no need for an additional path along the north side of Mahon Creek as there is already an existing path on the other side of the creek. Currently, there is a beautiful path on the south side of the Mahon Creek which has mature landscaping that provides a direct route to the

SMART station. The path runs along the south side of Mahon Creek through to 2nd Street with an existing cross walk connecting at Lincoln Avenue and a pedestrian bridge over Mahon Creek (on Francisco Blvd) connecting the path to the cross walk on 2nd. This path accommodates both pedestrians and bicyclists and runs along and provides access to the adjacent Shamrock shopping center where Sprouts, Staples, Subway, and Starbucks are located. In contrast, a path along the north side of Mahon Creek does not offer any similar connectedness. There is no activity along this formerly planned path nor any retail or business along the way that would benefit from pedestrian travel and help provide safety.

In addition to the existing path along the south side of Mahon Creek, there are also existing sidewalks on both sides of Lincoln Avenue along BioMarin's campus that BioMarin improved and continues to maintain to not only enhance the walking experience, but also route pedestrian crossing to the designated cross walks along Lincoln Avenue for safety. These sidewalks have great sight lines and are part of BioMarin's security team's hourly rounds. In addition, during peak morning and evening hours, BioMarin has a security guard stationed at the entrance to the Lincoln garage, which is well situated for observing people walking along the sidewalks. These existing sidewalks provide another option for people to safely walk to 2nd street, downtown, and the SMART station.

BioMarin is committed to supporting safe pedestrian routes and promoting walking routes in line with the City's adopted "*Our Vision of Downtown San Rafael*" and the City's Bicycle and Pedestrian Plan. BioMarin already maintains the sidewalks along both sides of Lindaro Drive, providing a safe route for pedestrians to travel from Anderson Street to 2nd Street and towards downtown San Rafael. In addition, the BioMarin project at 999 3rd Street will initiate activation of 3rd Street and provide better connectivity to downtown and its businesses. BioMarin has already committed to enhance the sidewalks along Lindaro, 2nd and 3rd streets as part of 999 3rd development, including significant enhancement of cross walks at 3rd Street and Lindaro Street. BioMarin is also improving the cross walk at Lindaro Street and 2nd Street. Finally, BioMarin will add a Class II Bike lane on Lindaro Street from 3rd Street to Anderson Drive or up to one mile of an equivalent section of roadway in San Rafael that is determined by the City to meet the City's Bicycle & Pedestrian Plan.

These improved sidewalks, bicycle lanes, and cross walks will allow safe and convenient pedestrian access to downtown. Pedestrians traveling to the SMART station can safely walk on 2nd Street or 3rd Street through downtown. This route of travel will encourage pedestrians to walk past downtown business establishments and further activate the streets of downtown San Rafael.

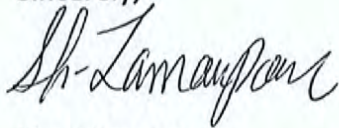
City of San Rafael, City Council

Date: March 5, 2020

Page 3 of 3

As discussed above, there are currently at least three existing options for pedestrians to walk safely from Anderson Drive to 2nd Street and further on to downtown San Rafael or the SMART station: the existing path south of Mahon Creek, sidewalks along Lincoln Avenue that run parallel to the existing Mahon Creek path but are not hidden behind the parking garage, and the sidewalk along Lindaro Street. All these options are superior to a dangerous and hidden path along the north side of Mahon Creek, which is why BioMarin and the City Council Special Committee agreed to eliminate this path requirement. BioMarin is pleased to improve the pedestrian experience and activation of downtown San Rafael through the contributions to sidewalks and cross walks along 2nd and 3rd Streets that we believe will be a significant benefit to the pedestrian experience and safety while connecting to downtown.

Sincerely,

A handwritten signature in black ink, appearing to read "Shar Zamanpour". The signature is fluid and cursive, written over a light blue horizontal line.

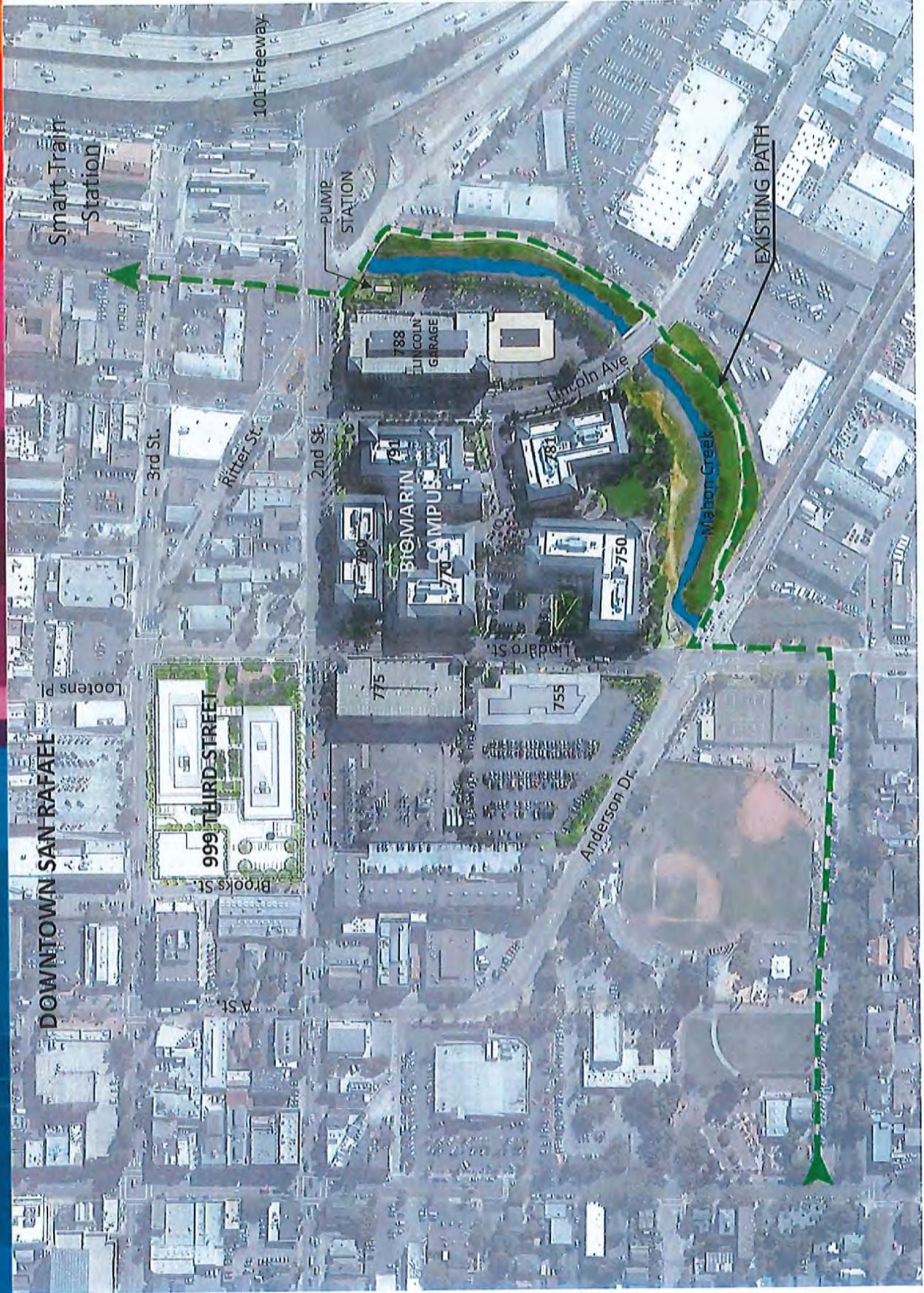
Shar Zamanpour

Director, Campus Planning & Design

BioMarin Pharmaceutical Inc.

Office: (415) 382-5726

Cell: (415) 609-0627





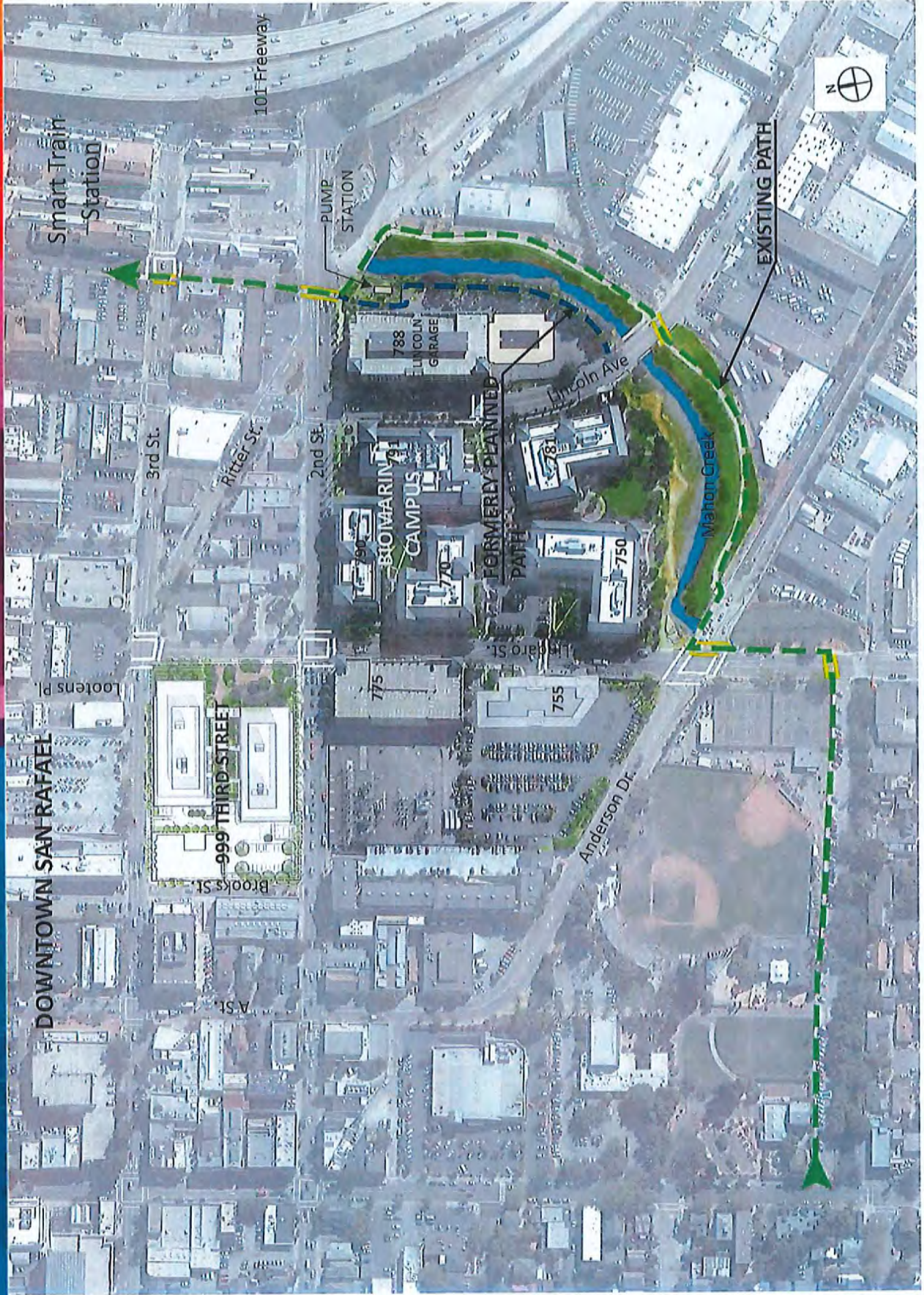
View at Lindaro St. & Anderson Dr.

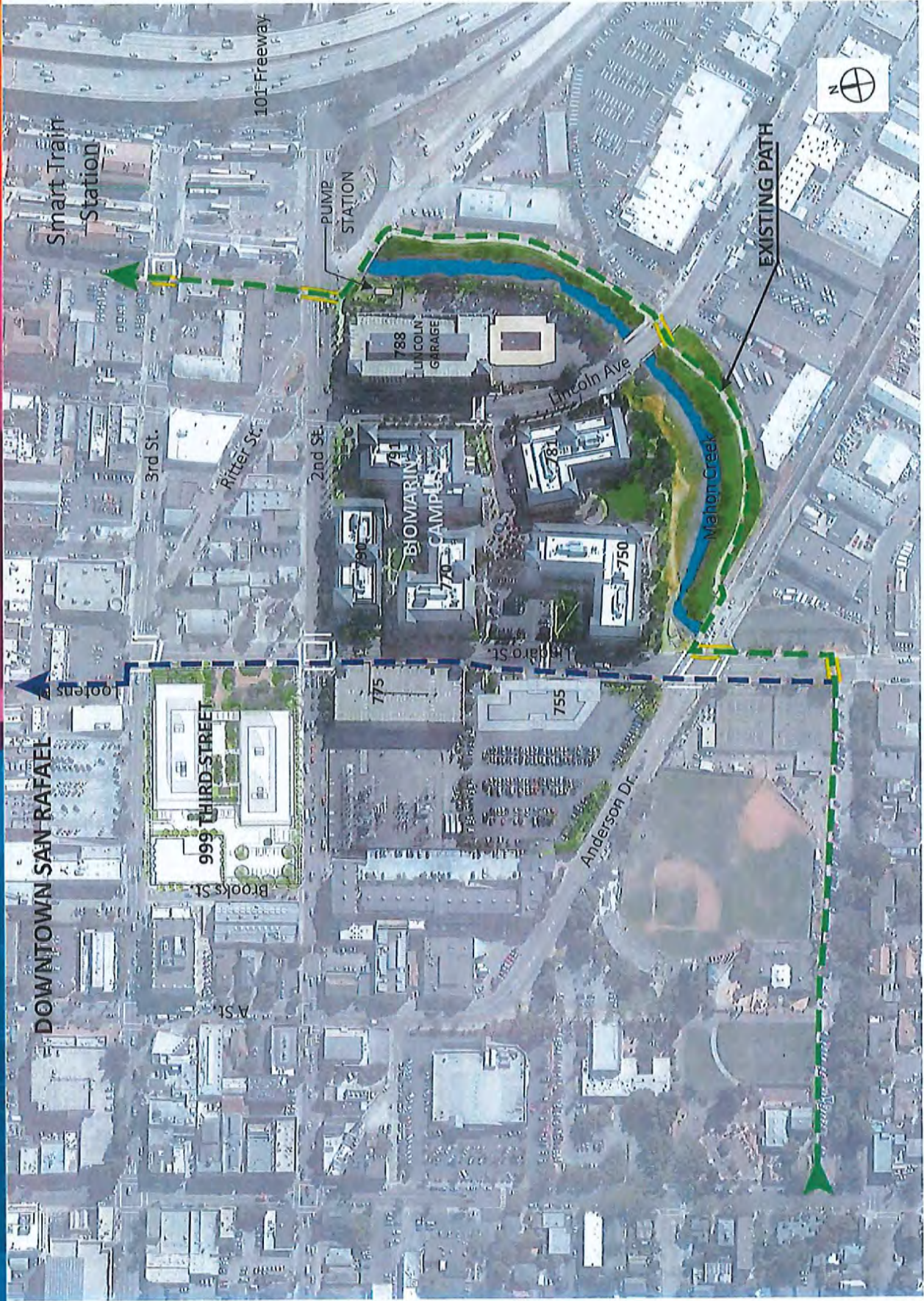


View Along the Path



View at Francisco Blvd.





**CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING**

You are invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE: **Monday, March 16, 2020 at 7:00 P.M.**
City Hall Council Chambers, 1400 Fifth Avenue, San Rafael, CA 94901

PROJECT: **PROJECT: 999 3rd Street (BioMarin/Whistlestop/EDEN Housing)** – Request for General Plan Amendment, Zoning Text Amendment, Planned Development (PD) Rezoning, Development Agreement, Environmental and Design Review Permit, Master Use Permit, Small Subdivision and Sign Program amendment for the development of two 72-foot tall, four-story Research and Development buildings on a 3.05-acre parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN's: 011-265-01, 013-012-38 & -39 and 013-021-50, -51, -52 -53, -54, &-55); Second/Third Mixed Use (2/3 MUE) Zone; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area; GPA18-001, ZO18-003, ZC18-002, DA19-001, ED18-087, UP18-034, S18-001, SP18-006.

As required by state law, the project's potential environmental impacts have been assessed. A Draft Environmental Impact Report (DEIR) (SCH # 2019029046) was previously prepared and made available for public review on August 9, 2019, for a 45-day public review and comment period concluding on September 23, 2019 at the Planning Commission meeting. A Final Environmental Impact Report/Response to comments (FEIR), which meets the provisions of the California Environmental Quality Act was made available for review on Friday, January 10, 2020. The FEIR (along with the DEIR) will be available on the City's web site at <https://www.cityofsanrafael.org/9993rd>. A limited number of copies of the FEIR will be available for review at the City of San Rafael Community Development Department (1400 Fifth Ave.) and the San Rafael Library (1100 E.S.).

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and decide whether to: 1) certify the Final EIR, 2) Adopt Statement of Overriding Considerations to significant unavoidable impacts to transportation and approve a Mitigation Monitoring and Reporting Program; and 3) Approve project entitlements described above.

IF YOU CANNOT ATTEND: You may send a letter to Lindsay Lara, City Clerk, City of San Rafael, P.O. Box 151560, San Rafael, CA 94915-1560. You may also hand deliver a letter to the City Clerk prior to the meeting.

FOR MORE INFORMATION: Contact **Sean Kennings**, the Project Planner at **(415) 533-2111** or sean@lakassociates.com You may also come to the Planning Division office, located in City Hall, 1400 Fifth Avenue, to look at the file for the proposed project. The office is open from 8:30 a.m. to 4:30 p.m. on Mondays, Tuesdays and Thursdays and 8:30 a.m. to 1:30 p.m. on Wednesdays. You may also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

(Please publish in the Marin Independent Journal on Sunday, March 1, 2020.)



January 26, 2020

San Rafael Planning Commission
1400 Fifth Avenue
San Rafael, CA 94901

BOARD OF DIRECTORS
William Carney, President
Bob Spofford, Vice President
Jerry Belletto, Secretary
Greg Brockbank
Jim Geraghty
Linda Jackson
Kay Karchevski
Kiki La Porta
Jesse Madsen
Samantha Mericle
Sue Spofford

415.457.7656

166 Greenwood Avenue
San Rafael, CA 94901

Re: BioMarin/Whistlestop Development Agreement

Dear Planning Commissioners,
Sustainable San Rafael continues to support the partnership of BioMarin and Whistlestop in a project that will bring significant new employment and affordable senior housing to our city. We encourage your approval of the development.

However, we urge that you delete the item in the Development Agreement that would eliminate the path along the north side of Mahon Creek adjacent to the Lincoln Avenue garage. (See exhibit 2f-5, City Obligation #2.) We're attaching a drawing of the approved path below.

This item has no nexus to the subject development or to the reasons stated for the Development Agreement. By reducing pedestrian movement and access to the transit center, the elimination of the path in fact would worsen the transportation impacts for which the project needs a finding of overriding consideration. This is moving in the wrong direction for area mobility, as well as backsliding on a previous commitment.

Mahon Creek is an important natural resource for downtown San Rafael, too long neglected. The required walkway continues the path along the creek through the BioMarin campus between Lindaro and Lincoln, linking the campus seamlessly to the transit center. It allows people a park-like connection to nature of the sort that becomes more difficult to find as our city grows, yet remains essential to the character of Marin. For these reasons, the path and adjacent restoration of Mahon Creek are featured in the Downtown Precise Plan now being completed.

As outlined in our March 11, 2019 letter, we also continue to encourage that BioMarin's Transportation Demand Management (now Mitigation Measure TRANS-1) include a program to reduce area traffic by reimbursing employees for commute expenses in lieu of driving; and that the following sustainability measures be considered during the building's LEED certification process: a) use of 100% renewable electricity, such as MCE 'Deep Green' or equivalent; b) all-electric HVAC and other building systems, appliances and equipment; c) provision of ample electric car and electric bike charging stations and capacity to expand future charging capacity; d) electrical outlets at all parking spaces; e) provision for collecting all green wastes for composting and/or energy generation, and for safely recycling all wastes; f) ample root space and soil to support healthy trees and landscape for maximal carbon capture; g) use of low CO₂ and carbon

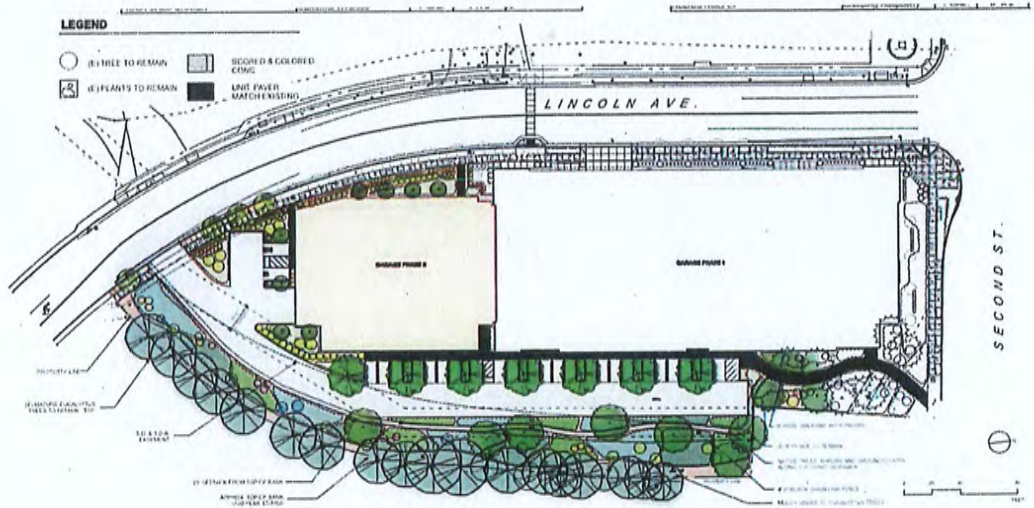
sequestering concrete and other building materials; h) practices and materials minimizing carbon emissions during construction.

Thank you for your close consideration.

Sincerely,

William Carney
Board President

Approved Lincoln Avenue Garage expansion drawing, 2015, showing path along Mahon Creek that BioMarin now proposes to eliminate.





March 11, 2020

San Rafael City Council
1400 Fifth Avenue
San Rafael, CA 94901

BOARD OF DIRECTORS

William Carney, President
Bob Spofford, Vice President
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Linda Jackson
Kay Karchevski
Kiki La Porta
Jesse Madsen
Samantha Mericle
Sue Spofford

415.457.7656

166 Greenwood Avenue
San Rafael, CA 94901

Re: BioMarin/Whistlestop Development Agreement

Dear Mayor Phillips and Council Members,
Sustainable San Rafael supports the partnership of BioMarin and Whistlestop to bring significant new employment and affordable senior housing to our city. We encourage your approval of their development.

However, we ask that you amend City Obligation #2 of the Development Agreement, to read as follows (added language italicized):

"Remove existing condition imposed on 755 Lindaro/Lincoln Garage for Pedestrian connection to SMART along Creek for public safety, unless prior to the start of construction on the Garage expansion, the City and BioMarin agree to mutually acceptable measures to manage safe use of the path in response to then prevailing conditions."

This suggested change retains the possibility of an appropriately managed public amenity, while aligning with the central purpose of the Development Agreement to provide for reasonable phasing of development decisions.

Mahon Creek is a significant natural resource for downtown San Rafael. As shown in the previously approved plan (attached below), the new walkway would simply continue the path along the creek that already exists through the BioMarin campus between Lindaro and Lincoln.

The extended path would link the campus seamlessly to the transit center. In fact, by reducing pedestrian movement and access to the transit center, elimination of the path would worsen the transportation impacts for which the project needs a finding of overriding consideration.

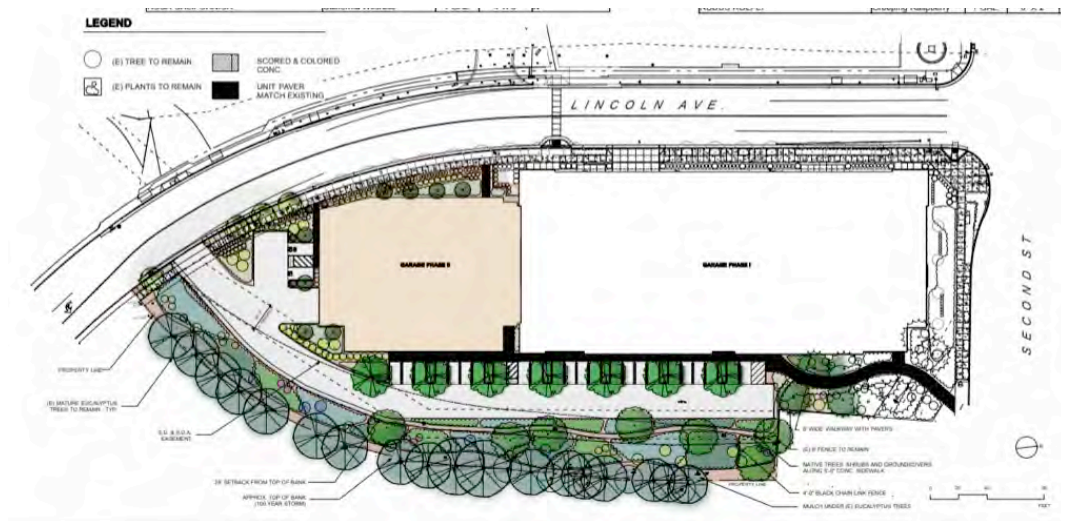
Most importantly, however, the path allows people a park-like connection to nature of the sort that becomes more difficult to find as our city grows, yet remains essential to the character of San Rafael. For these reasons, both the path and adjacent restoration of Mahon Creek are featured in the Downtown Precise Plan now being completed.

As always, thank you for your close consideration.

Sincerely,

William Carney
Board President

Approved Lincoln Avenue Garage expansion drawing, 2015, showing path along Mahon Creek that BioMarin now proposes to eliminate.





March 3, 2020

Mayor Gary Phillips and Members of the San Rafael City Council
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

Dear Mayor Phillips and Members of the San Rafael City Council:

Since 1964, Mike's Bikes has served the local cycling community starting with our first shop in Downtown San Rafael. The shop has moved from the West End to its current location today and the company has grown from that single shop to twelve shops covering Northern California, but it all started in Downtown San Rafael.

Staying in business for 56 years is no easy task, let alone growing significantly over that time. One of the keys to our success has been to partner with the local cycling community as well as the local business community. A thriving, vibrant downtown is good for the residents and it is good for business. We have seen a lot of change over the years and are encouraged by the growth in Downtown San Rafael.

With that in mind, we fully support BioMarin in their expansion efforts. We are neighbors with BioMarin on two fronts—our flagship store in San Rafael and our headquarters in Novato are both adjacent to BioMarin's campuses. We are fortunate to be surrounded by such great neighbors as we share a common vision for the greater good and giving back locally. Mike's Bikes has benefitted by the influx of BioMarin employees who have now become our customers. Also, for the past couple of years, BioMarin has been the presenting sponsor for the San Rafael Sunset Criterium. Their support has kept the bikes racing through downtown in front of thousands of spectators all while supporting the Mike's Bikes Foundation and our Africa Bike Drive.

BioMarin's growth in Downtown San Rafael is good for business through increased economic activity and also good for the community through their corporate sponsorships and community engagement. However, their impact is so much bigger than that as they are saving lives around the globe through innovative treatments. That is a mission we can all support and we would like to see their growth continue right here in San Rafael.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Marin", with a long horizontal flourish extending to the right.

Ken Marin
Founder & CEO
Mike's Bikes

March 1, 2020

To whom it may concern:

Our mission at San Rafael High School is for each student to acquire the skills and knowledge necessary to succeed in the future and to contribute to society while recognizing the dignity and worth of each individual.

We are tasked with educating a diverse group of learners and providing them with a pathway toward rewarding careers.

The partnership between BioMarin and SRHS is a critical step in this direction, as it provides us with a local, committed partner to contributing to the program.

Thanks to generous donations from BioMarin earlier this year and the previous year, we have been able to expand our access to biotechnology education for all of our biological sciences students. Additionally, we are underway on an ambitious STEAM project being led by our Academy of Physics and Technology that aims to use sustainable engineering practices to grow food locally. The extra funds provided by BioMarin allow us to provide more innovative, project-based, hands-on learning opportunities that are particularly beneficial to the most disadvantaged members of our population.

We are optimistic that this is just the beginning of a long relationship that will benefit San Rafael High School, BioMarin, and our community.

Thank you,

Kent Morales

Biology and Physics Teacher, San Rafael High School

Steve Temple

Physics, Computer Programming, and Media Academy Teacher, San Rafael High School





SAN RAFAEL PACIFICS
1201 2nd Street
San Rafael, CA 94901
415-485-6755

February 27, 2020

San Rafael City Council
1400 5th Avenue
San Rafael, California 94901

To the San Rafael City Council and Mayor:

BioMarin has been a valued partner and neighbor to the San Rafael Pacifics for many years. Through attendance, sponsorship, advertising, and sharing a parking lot, BioMarin has been a constant supporter for our local baseball team and the community.

It is no secret the Pacifics are in favor of growth for the community that helps the citizens, quality of life and the city. I believe BioMarin shares that belief and has demonstrated that through their work with us and other local partners.

The San Rafael Pacifics support the BioMarin/Whistlestop/EDEN Housing project on 999 3rd Street, providing needed housing for the community and job opportunities.

Thank you for your consideration,

A handwritten signature in black ink that reads "Gabriel Suarez". The signature is written in a cursive style with a long, sweeping underline.

Gabriel Suarez
President
San Rafael Pacifics

SAN RAFAEL CHAMBER

WE ARE ONE COMMUNITY • CELEBRATING 100 YEARS

February 26, 2020

City of San Rafael
City Councilmembers
1400 5th Avenue
San Rafael, CA 94901

Re: BioMarin/Whistlestop-Eden Housing Project

Dear Mayor Phillips and City Council:

On behalf of the San Rafael Chamber of Commerce, which represents nearly 625 Marin County employers with over 26,000 employees across 25 different industry sectors, I write to express our support for the project located at 999 Third Street in Downtown. We have been following the collaboration of this project between BioMarin and Whistlestop for over 5 years and anxious to see it entitled.

We ask that you approve the project as agreed upon in the development agreement with the City Council to avoid any further delays. BioMarin has pledged a generous amount of community benefits in the agreement and has shown it is greatly committed to growing within the City of San Rafael. In fact, in recent data provided to the Chamber, it shows substantial job growth in Marin over the last 5 years has been because of BioMarin. The Chamber also requests that no additional requirements are made of BioMarin to complicate the agreement; the suggested walking path in theory is a pleasant idea but in reality it is both unsafe and redundant. It will only cause more security issues in our downtown area and will not be in a location local law enforcement can see. It also would be a great financial expense to the company to secure, maintain and upkeep based on activities that occur in that area. And we already have a public path.

As you know, back in September of 2014, Whistlestop approached the Chamber and notified us that they had no other viable option other than utilizing their own land on Tamalpais Avenue to construct an active aging senior center with senior housing units above. The Chamber leadership endorsed this project at that time and has continued to follow their struggle to build much-needed senior housing in San Rafael. We are delighted that BioMarin, Whistlestop and Eden Housing have continued to collaborate on a forward-thinking way of utilizing the site at 999 Third Street to design both projects.

Since relocating to San Rafael in 2012, BioMarin has played an integral role in stimulating our local economy. The Downtown area has been infused with BioMarin employees enjoying many of our local restaurants, our local hotels have seen an increase in overnight stays from BioMarin out of town guests and our caterer and other service businesses have seen an increase in sales from BioMarin activities. The company has contributed thousands of charitable dollars back into our community and established themselves as a vital contributor to well-paying jobs. In addition,

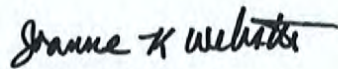
SAN RAFAEL CHAMBER

WE ARE ONE COMMUNITY • CELEBRATING 100 YEARS

BioMarin is cleaning a brownfield site while providing an incredible public amenity of a partial donation of their property to Whistlestop for some severely needed senior housing.

We continue to support this project and are anxious to see it built. Since BioMarin moved here, the biotech industry has been identified as a growing core industry for San Rafael; so we want to maintain a favorable environment to attract more of these business types. We urge the city to look at the big picture and expedite the process in moving this project forward in an effort to grow Downtown, create new jobs and provide much needed senior housing.

Sincerely,



Joanne Webster

President and CEO

cc via email: Chamber Board of Directors



February 24, 2020

City Council of San Rafael
1400 Fifth Avenue, Room 203
San Rafael, CA 94901
c/o Raffi Boloyan, Planning Manager

Re: 999 Third Street Development Project

Honorable Mayor and Commissioners:

On behalf of Side by Side (formerly Sunny Hills Services), I am writing to express our strong support for this project, for the following reasons:

- The Project will significantly improve the quality of life for San Rafael and Marin County residents, specifically by providing much needed affordable housing for seniors, which will also alleviate the dire shortage of workforce and affordable housing in the county.
- Whistlestop's Healthy Aging Center will be a valuable resource for seniors in San Rafael and Marin County, especially those with limited incomes.
- The Project will greatly enhance the 3rd Street downtown corridor, improving a vacant brownfield site, creating a landscaped plaza accessible to the public during daytime hours, and improving bike access and pedestrian safety in the area.
- BioMarin's donation of property valued at \$1.2 million towards the Project, and donation of funds towards the bicycle and pedestrian enhancements, sets a positive example of private support to leverage scarce funding for projects that serve community needs.
- Both Whistlestop and BioMarin are exemplary members of the San Rafael and Marin County business and nonprofit communities, whose combined expertise and experience anticipate the successful completion and operation of the Project.

Side by Side's TAY Space program serves transition age youth (TAY) who struggle with severe mental health issues compounded by poverty, homeless and trauma histories. The TAY Space program also runs a drop-in center for youth at its location near the project on B Street, and we appreciate the economic and quality of life benefits that the Project will bring to the neighborhood and the community.

BioMarin has been a steadfast partner of Side by Side and many other community benefit organizations in Marin County for many years, providing much needed philanthropic support allowing us to provide essential services to members of our community.

We strongly encourage the City Council to approve this application.

Sincerely,

A handwritten signature in cursive script that reads "Mary Denton".

Mary Denton
CEO

MARIN THEATRE COMPANY

Jasson Minadakis | Artistic Director

Jenna DeJa | Interim Managing Director



Feb. 24, 2020

San Rafael City Council
1400 Fifth Ave.
San Rafael, CA 94901

Dear Mayor Phillips and City Council members,

On behalf of the Marin Theatre Company (MTC) we want to voice our support for the BioMarin and Whistlestop development in downtown San Rafael. BioMarin has been a strong partner of MTC and this expansion only solidifies their footprint in the county. It is essential for companies that are locally involved in the arts to be celebrated and highlighted so programs like ours can grow and improve the quality of life for Marin residents. On top of this, the project would solidify a partnership with an excellent partner like Whistlestop to build a Healthy Aging Campus and 67 low-income homes for our seniors. This partnership highlights a positive collaboration that can occur when the business and nonprofit communities work together, and we put the needs of our community first.

MTC, a LORT D regional theatre, produces world-class theatre including a six-production season for 30,000 patrons and in-school and in-theatre education programs for nearly 3,000 students from across the Bay Area each year. We employ a 22-person full-time staff, in addition to nearly 80 designers, artists, playwrights and actors, with the majority local to the Bay Area. We strive to set a national standard for intimate theatre experiences of the highest quality, featuring provocative plays by passionate playwrights. We pursue a dialogue with our community that addresses our national and local concerns and interests and assists us in finding a new understanding of our lives. We create future artists and arts patrons through innovative programs for youth.

MTC is proud to support this project and looks forward to our partnerships with BioMarin as they stay committed and supportive of the local nonprofit community.

Sincerely,

Angela M. Colombo
Director of Development



SMALL
BUSINESS
DEVELOPMENT
CENTER

MARIN

February 24, 2020

City of San Rafael
1400 Fifth Ave
San Rafael, CA 94901

Subject: BioMarin/ 999 3rd Street Development

Dear San Rafael Mayor and City Council Members:

The Marin Small Business Development Center (SBDC) is grateful for the financial contribution from BioMarin to help continue a much needed 10-session workshop designed for low-income Spanish speakers. They are investing in our community and supporting underserved people. This workshop gives training to entrepreneurs who want to either grow or start their business and helps immigrants who want to make a better life for themselves. Supporting our local economy through entrepreneurship is one of the best ways to demonstrate commitment to enhancing our community. BioMarin is working with local partners to help bring more vibrancy for all.

We are supportive of their collaboration with Whistlestop and Eden Housing for the future expansion on 999 3rd Street. The Project will significantly improve the quality of life for San Rafael and Marin County residents, by providing much needed affordable housing for seniors, which will also alleviate the dire shortage of workforce and affordable housing in the county. The revitalization of this former brownfield situated next to public transportation will create a landscaped plaza accessible to the public during daytime hours, and improving bike access and pedestrian safety in the area. This project will improve the downtown area and enhance our community.

We look forward to our continued partnership with BioMarin and are fortunate to have them in our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam Karell".

Miriam Karell
Marin SBDC Director

**MARIN SMALL BUSINE
DEVELOPMENT CENTI**

DOMINICAN UNIVERS
50 ACACIA,
SAN RAFAEL, CA 949

MARINSBDC.OI

P: 415.482.18



02/21/2019

San Rafael Mayor Gary Phillips and City Council

1400 Fifth Avenue

San Rafael, CA 94901

Dear members of the City of San Rafael,

On behalf of the Canal Alliance, I'm pleased to express support for the BioMarin/Whistlestop development in San Rafael and ask that you approve the development agreement and project as presented.

BioMarin is a valuable member of the in San Rafael and Marin County, BioMarin also demonstrate its commitment to the local community through its volunteer involvement and financial investment in local nonprofits, including a partnership and sponsorship with Canal Alliance.

BioMarin's proposal for the mixed-use project development on third street in San Rafael provides an inspiring example of the role that cross-sector collaboration must play in addressing the most pressing issues facing our community. The shortage of affordable housing in our community is a complex challenge that will require coordinated and intentional partnership – such as this one between BioMarin and Whistlestop to develop this project, which will improve senior's access to critical services within the community and provide dozens of units of affordable for seniors in an accessible area of San Rafael.

Sincerely,



Omar Carrera

Chief Executive Officer



MARIN COUNTY
OFFICE OF EDUCATION

1111 LAS GALLINAS AVENUE/P.O. BOX 4925
SAN RAFAEL, CA 94913-4925
marincoe@marinschools.org

MARY JANE BURKE
MARIN COUNTY
SUPERINTENDENT OF SCHOOLS

(415) 472-4110
FAX (415) 491-6625

February 11, 2020

San Rafael City Council
1400 Fifth Avenue, Room 203
San Rafael, CA 94901

Dear Mayor Phillips and Councilmembers,

I am very pleased to write this letter on behalf of BioMarin in recognition of their strong support for Marin County schools. Recognizing their responsibility to the local communities where they have such an important and visible presence, BioMarin offers financial support to schools to enhance learning opportunities for our students.

Through their corporate financial support as a Gold Sponsor of SchoolRule-Marin, BioMarin helps every student in every public school in our community. SchoolsRule-Marin is composed of all of Marin's school district foundations working as one to raise funds that are distributed on a per-student basis in the areas of literacy, technology, the arts and health. As a leading sponsor, BioMarin is helping to insure that all students, in all of Marin's public schools, have the best possible educational opportunities.

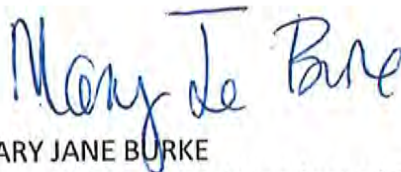
BioMarin understands the important role that industry plays in inspiring and helping to prepare our students to be the successful, knowledgeable and a skilled workforce we need now and into the future. BioMarin has provided funding and in-kind resources for science programs in Marin's high schools. The San Marin High School STEM Biotech Academy makes annual workplace visits to BioMarin labs and has had student interns placed at the company. Another example is BioMarin's support for the addition of a Grow Room at San Rafael High School, a program where students research how cities can feed themselves through food producing architecture.

In addition to local programs, BioMarin supports programs throughout the Bay Area through their partnership with Biotech Partners. Biotech Partners educates underserved youth with personal, academic and professional development experiences that increase participation in higher education and access to fulfilling science careers.

Also, very noteworthy and so symbolic of BioMarin's sense of corporate responsibility is the *Rare Scholars* program, an annual scholarship for students living with a rare disease that aims to empower patients with continued education by recognizing students who have demonstrated leadership and participation in school and community activities.

As a leading Marin industry, BioMarin has made considerable investments in our community as they plan for their future. Our schools are so fortunate to have benefitted from that investment and we look forward to our continued partnership with BioMarin.

Sincerely,

A handwritten signature in blue ink that reads "Mary Jane Burke". The signature is written in a cursive style with a large, prominent "M" and "J".

MARY JANE BURKE
Marin County Superintendent of Schools



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Aging Institute For Research on Aging

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Collections Operations Manager
Technology

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Partner
Bryant, Johnson, Anderson, Miller
Moskowitz LLP

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North Bay Practice Leader
INTERWEST INSURANCE SERVICES, LLC

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Sonoma State University

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Administrator/Chief Nurse Executive
Lowato Community Hospital
Cutter Health

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Regional Vice President
Wells Fargo Bank

SYNTHIA MURRAY
President & CEO

JATE MURRAY
CEO

February 10, 2020

Re: BioMarin 999 3rd Street Development Project

Dear San Rafael Planning Commission,

NBLC is an employer-led public policy advocacy organization committed to providing leadership in ways to make the North Bay sustainable, prosperous and innovative. As business and civic leaders, our goal is to ensure economic health by building more housing, promoting better education, and improving our infrastructure to make our region a better place to live and work. Collectively, our members have over 25,000 employees. North Bay Leadership Council supports BioMarin's 999 3rd Street Development Project.

In October of 2018, BioMarin collaborated with local nonprofits Whistlestop and Eden Housing and submitted an innovative mixed-use development proposal application to develop the currently vacant brownfield property located at 999 3rd Street. This proposal embraces local, state, and federal initiatives to revitalize downtown areas and to redevelop brownfields. We urge the City Council to approve the Development Agreement as-is, to keep the project moving forward. We also discourage the addition of a redundant walking path that could create a number of safety issues for both BioMarin and the citizens of San Rafael.

BioMarin's portion of the proposed project consists of 207,000 sf of research laboratories, supporting offices, conference rooms, and amenities consisting of retail space and a landscaped plaza accessible to the public. The Whistlestop/Eden Housing portion of the project consists of an 18,000-square-foot Healthy Aging Campus with 67 units of affordable housing for older adults.

As one of the largest and fastest growing employers in San Rafael and Marin County, with a significant share of its workforce residing locally, this development will further help San Rafael realize its goals to enhance the quality of life for its people, businesses and community, while providing for improved mobility and a vibrant economic and cultural center in Downtown San Rafael.

This project provides a number of public benefits to the city including:

- Provision of much needed affordable housing development for older adults and a Healthy Aging Campus
- Remediation and revitalization of a brownfield proximately situated to public transportation and downtown businesses
- BioMarin's donation of a portion of the property, valued at \$1.2 million, for the development of the healthy aging campus and affordable housing for older adults
- Provision of 3,500 square feet of retail space and 6,000 square feet of landscaped plaza open to the public during daytime hours at the corner of 3rd and Lindaro streets
- Promotion of San Rafael's goals of encouraging alternative modes of transportation with BioMarin's donation of funds to develop of a bike lane on Lindaro Street from 3rd Street to Anderson Drive
- BioMarin's donation of funds to enhance pedestrian safety with improved sidewalks and crosswalk design at the following intersections: Lindaro and 2nd Street, Lindaro and 3rd Street streets and 3rd Street and Lootens Place
- Support for the City of San Rafael's desire to attract and retain a growing and sophisticated work force with high paying jobs
- Activation of 3rd Street as a vibrant downtown corridor, in parallel to and complementing 4th Street
- Support for the continued growth and retention of BioMarin in San Rafael, which in turn provides significant economic benefits to the City as well as local businesses
- Creation of transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals



BioMarin has a long history of giving back to the community. BioMarin supports programs and activities that foster excellence in-patient care and provide valuable scientific, medical, and educational information to the medical and scientific communities as well as patient advocacy organizations.

BioMarin is a proud partner with over 30 organizations throughout the county including the Downtown Streets Team, The Canal Alliance, San Rafael High's Science and Engineering Program, California Film Institute, Schools Rule, Side By Side, The North Marin Community Services, Whistlestop, North Bay Children's Center, 10,000 Degrees, St. Vincent de Paul Society of Marin, The Marin Humane Society, The San Rafael Pacifics, Biotech Partners' Biotech Academy at San Marin High School & Bioscience Career Institute at College of Marin.

North Bay Leadership Council supports BioMarin's efforts because they have been proven community leaders and contributors. Because of this we support the BioMarin 999 3rd Street Development Project.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Murray".

Cynthia Murray
President & CEO



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FILM INSTITUTE

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January 12, 2020

San Rafael City Council
1400 Fifth Ave,
San Rafael, CA 94901

Dear Mr. Mayor and City Council,

The California Film Institute (CFI) would like highlight the partnership we have shared with BioMarin over the last few years. Their local program support and commitment to the region has been a benefit to the county in so many ways. Not only do they support our programs through their charitable donations, they are also a frequent partner of the Christopher B. Smith Film Center where they hold a number of employee meetings and events. As the largest non-governmental employer in Marin, their economic benefits to the city is second only to the amazing work they do for their patients.

We are also supportive of their collaboration with Whistlestop and Eden Housing for the future expansion on 999 3 Street to bring more employment and much needed senior housing to San Rafael. We urge the City Council to approve the Development Agreement in its current form, and not delay the process any further. The revitalization of this former brownfield situated next to public transportation will create much-needed synergy in the heart of downtown. It is essential for the California Film Institute to have anchor companies like BioMarin within the city to improve the city infrastructure and grow a solid economic base.

We look forward to our continued partnership with BioMarin and are fortunate to have them in our community.

Sincerely,

Beau Blanchard
California Film Institute



To: The San Rafael City Council Members

From: Erika Bowker, President of Downtown BID and Owner of Pleasures of the Heart

Date: March, 12th, 2020

Subject: In Support of the BioMarin and Whistlestop Project at 999 3rd Street

Dear City Council Members,

I am writing to you to let you know we are in full support of BioMarin and Whistlestop's most recent development proposal for 999 3rd Street. We support the continued growth and retention of BioMarin in San Rafael, which in turn provides significant economic benefits to the City as well as local businesses. We believe this will bring a growing amount of foot traffic to our Downtown San Rafael, creating a vibrant Third street and complementing Fourth street. We need you, the City Council, to help move this project application through these final stages as soon as possible so that Eden Housing can begin securing over \$25 million in state and other affordable housing funding for this local project. Now is the time to make this happen!

Sincerely,

Erika Bowker

Pleasures of the Heart

1310 4th Street

San Rafael, Ca 94901

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Administrator/Chief Nurse Executive
Novato Community Hospital
Sutter Health

FRED VELA
Regional Vice President
Wells Fargo Bank

CYNTHIA MURRAY
President & CEO

KATE MURRAY
CAO



March 12, 2020

Mayor and City Council
City of San Rafael
Via Email

Re: BioMarin 999 3rd Street Development Project

Dear Mayor and City Council:

North Bay Leadership Council (NBLC) is an employer-led public policy advocacy organization committed to providing leadership in ways to make the North Bay sustainable, prosperous and innovative. As business and civic leaders, our goal is to ensure economic health by building more housing, promoting better education, and improving our infrastructure to make our region a better place to live and work. Collectively, our members have over 25,000 employees. North Bay Leadership Council supports BioMarin's 999 3rd Street Development Project.

BioMarin plays a vital role in the county's economy by contributing over \$850 million dollars to the local economy and over \$30 million in state and local taxes. With this kind of positive economic impact, helping BioMarin grow within the city is imperative. The city's tax receipts will be a major beneficiary. This project is an innovative mixed-use development that exemplifies the city's mission to improve the infrastructure of the region to make San Rafael a better place to live and work

BioMarin, Whistlestop, Eden Housing, and the City's Planning department staff have been working together for over three years on this joint application. A considerable amount of time, money, human capital, and professional expertise has been invested in this complex process. The innovative development will create new research laboratories, supporting offices, conference rooms, and amenities to the downtown corridor.

It will also provide the land for Whistlestop and Eden Housing to offer 67 units of new, safe and 100% affordable housing, together with a new 18,000 square foot state-of-the art Healthy Aging Center and Integrated care facility.

This dynamic proposal embraces local, state, and federal initiatives to revitalize downtown areas and to redevelop brownfields. It will also add 3,500 square feet of retail space and 6,000 square feet of landscaped plaza open to the public during daytime hours at the corner of 3rd and Lindaro streets. It creates a transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals

In addition, BioMarin recently completed a multi-million-dollar clean-up of the site to show their commitment to the development and to growth within the city.

We are also in full support of BioMarin's most recent Development Agreement proposal terms. The terms that BioMarin have set out are beyond reasonable and this development will have lasting positive economic impact for years to come. It will also be an example for future companies that San Rafael is a city that you can start and grow within.

The Community is in full support of this project and is now looking to the City Council to approve this project. NBLC urges you to please support this project so it can move forward.

Sincerely,

Cynthia Murray
President & CEO



March 12, 2020

Dear SR City Council Members,

I am writing to express my support of the BioMarin/Whistlestop project at 999 3rd Street.

I and many others feel that this project provides a major community benefit by redeveloping this property as an innovative mixed-use development, incorporating BioMarin's growing work force with affordable senior housing and a healthy aging campus in a new home for nonprofits Whistlestop and Eden Housing.

The planned sidewalk and crosswalk improvements will help facilitate direct access to Downtown local businesses for the employees of BioMarin and residents of Whistlestop to frequent. This will all contribute to a vibrant Downtown San Rafael. I urge you to approve this project so that all parties can take advantage of current funding opportunities and get it started!

Sincerely,

Eda Lochte
ED, Downtown San Rafael BID

SRBID P.O. Box 151050 San Rafael, CA 94901 Director@DowntownSanRafael.org

The mission of the Downtown San Rafael Business Improvement District is to promote the common interests of business owners for the purpose of maintaining and developing a downtown that is a welcoming place to shop, dine, work, and live.



February 11, 2020

San Rafael City Council
1400 Fifth Ave,
San Rafael, CA 94901

Dear San Rafael City Council,

This letter is to applaud BioMarin for their generous contribution to our new playground in Albert Park for the past two years. We were very happy to see them step in as a community partner, and at one of the highest financial levels that we received.

We are also supportive of their partnership with Whistlestop and Eden Housing for a future expansion on 999 3rd Street to bring more employment and much needed low-income affordable housing to downtown. We request that you support the project when it comes in front of the Council so a local company can expand and there is much needed low-income senior housing created downtown. We also request that you do not require BioMarin to build an additional walkway on their private property. There is already a suitable path 20 ft away and this could cause walkway safety issues.

It is our goal to support top-tier companies like BioMarin within the city to improve our downtown. We look forward to working with BioMarin in the future and are glad to have them in our community.

Sincerely,

[Lisa Hanson](#)

The B Team Steering Committee

San Rafael Team

532 Fourth Street San Rafael, CA 94901



Att: San Rafael City Council

It is with great pleasure that I write this letter to request support the BioMarin development at 999 3rd St. in San Rafael. Over the last 4 years BioMarin has been very involved with the Downtown Streets Team and having a community-engaged local business like theirs expand in San Rafael can only be an asset. We would also ask that you approve the development agreement as presented and not require BioMarin to build an additional walkway along the creek. This walkway would only create potential safety challenges for both citizens and employees that would overshadow its convenience. As you know, we work along that public space quite a bit. A private path like this, only a few feet away, would bring unnecessary additional liability to its owner. It is our goal to assist in creating safe spaces for our community, and BioMarin has been instrumental in supporting our efforts.

We would like to highlight the generosity and social impact we've experienced by partnering with BioMarin. In 2016, Downtown Streets Team, the City of San Rafael and the San Rafael BID launched the Put Your Change to Work program as a tool to help reduce panhandling. This program was intended to reduce panhandling in San Rafael's downtown corridor with the ideology that when panhandling is rewarded through intermittent or positive reinforcement, it perpetuates panhandling; furthering tensions between the homeless community and the business community. The business community feels as if panhandling drives away business and the homeless community feels unwelcome, and ostracized.

Downtown Streets Team implemented a program with bright purple/pink refurbished parking meters to give those who want to give an easy method to give, accepting credit cards and pocket change, so contributors can feel confident that their money is going towards covering the basic needs of the people that need it most. Those that find the need to panhandle, can join Downtown Streets Team, a nonprofit that gives those experiencing homelessness the opportunity to volunteer in exchange for stipends that cover their basic needs, allowing them to shop at Safeway and other stores. The stipends themselves have less spending flexibility than SSI/SSDI but more flexibility than CalFresh. Program participants also get work experience and the opportunity to move into employment through one of our pipelines. With the amount of money that BioMarin gave us, we've been able to serve up to six of our Team Members over the course of two years.

BioMarin was one of the first supporters of this program and they sponsored a meter for three years, during that time, according to anonymous/optional survey results from local businesses, more than half of the downtown businesses noted that they saw a positive impact in San Rafael street behavior and wanted to see the program expanded. This impact wouldn't have happened without the continued support of BioMarin and other sponsors.

Again, we ask you to approve this project as recommended to ensure positive growth within the city.
Thank you.

Karen Strolia

Karen Strolia
Director of the North Bay
Downtown Streets Team
Karen@StreetsTeam.org
(415) 636-1459



March 5, 2020

San Rafael Planning Commission
1400 Fifth Ave,
San Rafael, CA 94901

RE: BioMarin-Whistlestop/ 999rd 3rd Street Development

To Whom it May Concern,

The Marin Economic Forum (MEF) is a public-private non-profit organization that focuses on Marin County's economic vitality. Our organization includes Board members that represent public and private sector, including some of Marin's leading companies and employers. One of our members is BioMarin Pharmaceuticals, who has been represented by the Vice President of Government Affairs Kathryn Lowell. Mrs. Lowell has contributed her time and expertise to support our organization.

BioMarin has a 20-year legacy here in Marin and is the largest non-government employer in the county. In a study conducted by MEF in August 2019, we found that BioMarin has a revenue multiplier of 1.27: for every million dollars of revenue, a further \$270,000 is generated elsewhere in the local economy. Novato and San Rafael are centers of BioMarin's activities, where BioMarin and its ripple effects support over \$1.103 billion in overall business revenues, 3,084 jobs, and \$359 million in wages. Capital projects add over 1,000 jobs beyond operations.

Beyond the fiscal contributions to our local economy, BioMarin also represents an important example of the innovative types of companies that are born and grow in Marin County. In a recent national survey of employees by *Forbe's* magazine, BioMarin ranked fourth on the "America's Best Midsize Employers" in the 2019 list and first among its peers in the "Drugs & Biotechnology" industry.

We support any action that would retain or expand BioMarin's operations in the county.

Sincerely,

Mike Blakeley, CEO
Marin Economic Forum

From: [Allan Bortel](#)
To: [Lindsay Lara](#)
Cc: [Ralph Marchese](#)
Subject: Marin County Commission on Aging for Whistlestop project
Date: Saturday, March 14, 2020 2:54:10 PM

Our committee has long supported the Whistlestop Healthy Aging Campus project. We believe that it will offer the lowest price point in Marin for affordable Senior Housing. It will also be unique in offering clinical services to residents and other community seniors.

Please register our support on Monday at City Council meeting.

Allan Bortel, Chair
Housing & Transportation Committee
Marin County Commission on Aging and
member California Senior Legislature

From: [Charles Stuckey](#)
To: [Lindsay Lara](#)
Subject: Whistlestop
Date: Saturday, March 14, 2020 10:49:03 AM

Councilmembers,

I support the Healthy Aging Campus project of Whistlestop and encourage the City Council to approve it.

Charles H. Stuckey

Chuck Stuckey
109 Knollwood Drive
San Rafael, CA 94901
415-342-6252 -cell
ChuckStuckey@hotmail.com

**MURIEL HARRIS
14 COVE ROAD
BELVEDERE CA 94920**

March 16, 2020

San Rafael City Council

Re: Whistlestop Healthy Aging Campus

Dear Council Members,

As a long time supporter and donor of Whistlestop, I am thrilled to hear that the San Rafael Planning Commission has voted unanimously to approve the Healthy Aging Campus project.

In the 1970's I became a member of one of the nine units of Marin Foundation who raised money for Whistlestop. The Driftwood Unit of Marin Foundation was happy to provide funds to create the kitchen at the Jackson Café and for many years all the funds we raised at our annual Driftwood Fizz parties went to providing grants to Whistlestop. When Driftwood was forced to disband some years ago and it became known that Whistlestop would have to re-locate, I wanted to make sure that they could continue to do their good works in a more efficient venue.

Whistlestop provides so many much needed services for the elderly in Marin and I was thrilled to be asked to donate to try to make the new proposed campus a reality. I continue to be impressed with all the services they provide and look forward to the day when they can have a well-located permanent facility. I am proud to have watched Whistlestop flourish under the leadership of Joe O'Hehir and highly recommend that you approve this important project.

Thank you,

Muriel Harris



LEAGUE OF WOMEN VOTERS OF MARIN COUNTY

March 16, 2020

TO: Members of the San Rafael City Council
RE: Whistlestop Project

The Marin County League of Women Voters is a longtime supporter of the work Whistlestop performs to provide critically needed services and amenities for older adults. Those services are needed more than ever. The rapidly growing number of Marin seniors over 85 years requires improvements in housing, healthcare, nutrition and transportation, as well as newer vital services such as social interaction and resource referrals.

The Whistlestop project is a major step toward providing those services. Its location is excellent for seniors. Its design concept and abundant landscaping fit well with the adjoining BioMarin property. A key factor as seniors age is the opportunity to socialize with their peers. That opportunity will be provided by the open-air garden, common spaces and a library, preventing tenant isolation. There are various transportation options available, eliminating the need for tenants to own cars.

In so many ways this project has been thoughtfully planned with attention to satisfying the concerns of the city and the greater Marin County community as well as its tenants.

We ask the San Rafael City Council to approve this excellent project.
Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Ann Batman".

Ann Batman, Co-President

A handwritten signature in cursive script that reads "Ann Wakeley".

Ann Wakeley, Co-President

Brenna Nurmi

To: Lindsay Lara
Subject: RE: Healthy Aging Campus

From: Douglas Reilly <douglas@douglasreilly.com>
Sent: Monday, March 16, 2020 10:12 AM
To: Lindsay Lara <Lindsay.Lara@cityofsanrafael.org>
Subject: Healthy Aging Campus

Dear City Council,

I am writing to express my deep support for the Whistlestop Healthy Campus project being presented for approval to the San Rafael City Council on Monday, March 16.

Due to the concerns over the coronavirus I will not be attending in person but wanted to send a note to ensure that my support is conveyed to the Council.

I have recently joined the Board of Directors for Whistlestop, and have been a resident of San Rafael for 7 years and the county for over 30, and have strong belief in the strength of the mission of the organization and its ability to provide essential services to the elderly in our city and the county at large. Please vote yes to this huge step forward in that endeavor.

Kind regards,

Douglas Reilly

BioMarin / Whistlestop / Eden Housing project

McCallum, Joe <JMcCallum@ngkf.com>

Sun 3/15/2020 8:04 PM

To: Raffi Boloyan <Raffi.Boloyan@cityofsanrafael.org>; sgunning@scsengineers.com <sgunning@scsengineers.com>

As a resident of downtown San Rafael, I am writing to show my support of the BioMarin / Whistlestop / Eden Housing project at 999 Third Street. I am looking forward to seeing this long vacant, 3-acre site repurposed as a thriving center of local employment and much needed affordable senior housing. This is an innovative project and one that is poised to benefit San Rafael both now and in the future.

Thank you,

Joe McCallum

Transaction Services Specialist

Newmark Knight Frank
1101 Fifth Avenue, Suite 230
San Rafael, CA 94901

D 415.526.7672

jmccallum@ngkf.com

 Save a Tree - Think Before You Print.

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March 18, 2020

San Rafael City Council
1400 Fifth Avenue, Room 203
San Rafael, CA 94901

Dear Mayor Phillips and Councilmembers:

I am pleased to write this letter in recognition of Bio Marin's strong support and partnership with San Rafael City Schools.

The mission of San Rafael City Schools is to lift student achievement. Every student, every day. Our students are confident learners, effective communicators, critical thinkers and positive contributors to the global community. Bio Marin's commitment to expanding biotechnology education with our students has allowed our students to have access to resources they normally would not have access to. By doing this, they are exhibiting the 21st Century learning skills we want all of our students to have.

Last year and because of a generous donation from BioMarin, students from San Rafael High School's Academy of Physics and Technology completed a STEAM Unit of Study where they had the opportunity to innovate sustainable engineering practices to grow food locally. This type of hands-on, collaborative, engaging learning only amplifies our students' cognitive, social, and emotional growth. We need more of BioMarin.

We are thrilled and so very grateful to continue this partnership and look forward to future collaboration within our Middle and High Schools.

Sincerely,



Jim Hogeboom, Superintendent
San Rafael City Schools